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Guidance on the Use of Escrow Agreements for Rail Applications

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Rail Industry Guidance Note



Documents

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Guidance on the Use of Escrow Agreements for Rail Applications

Issue record

Issue	Date	Comments
One	June 2014	Original document This document gives guidance on the use of escrow agreements and is intended to assist in understanding the application of escrow agreements.

Superseded documents

This Rail Industry Guidance Note does not supersede any other Railway Group documents.

Supply

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Guidance on the Use of Escrow Agreements for Rail Applications

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Part 1 Introduction

G 1.1 Purpose of this document

- G 1.1.1 This document gives guidance on the use of escrow agreements. This guidance is intended to assist in understanding the application of escrow agreements. This document does not set out any requirements.

G 1.2 Background

- G 1.2.1 Within the railway environment, there are many different parties that each have their own obligations and may need to use escrow. For example, when considering railway assets, including rail vehicles this includes vehicle designers and manufacturers together with their suppliers, those who own and lease rail vehicles, and those who maintain and operate rail vehicles. Throughout this chain, it is important that the specified intellectual property relating to a vehicle design (and the design documents themselves) are available and can be accessed legally for the lifetime of the asset or project. It is essential to maintain a business continuity strategy that enables access to critical data where the intellectual property is retained outside of an organisation or group by the legal owners of such items. It is essential to maintain business continuity such that access to critical data is available where the intellectual property in a design (for example program source code) is retained by the designer.
- G 1.2.2 In addition, many railway products are specified to operate for 40 years and obsolescence can be a critical business continuity issue. Identification of the responsibility for reading code and related software products needs to be identified for the appropriate life. It is likely that either hardware or expertise to operate or administer products will be lost over this period without specific provision.
- G 1.2.3 This guidance explains how escrow agreements can be used in the rail industry and is aimed at those who need to maintain business continuity when a key supplier ceases to operate, goes into liquidation, or withdraws from the market or support ceases. Escrow agreements are not unique to the rail industry; this guidance is, however aimed at introducing the concept of escrow and provides a sign post to the key elements of information required in an escrow agreement.
- G 1.2.4 The document provides guidance relating to:
- a) What is escrow, its purpose, when to use it and what it means for different parties.
 - b) Contents of an escrow deposit and what problems could be encountered.
 - c) Validation of an escrow deposit agreement.

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