

**This Operating Agreement (“the Operating Agreement”)** is dated the                    day of  
2022 and is made **BETWEEN:**

(1)     **TENDRING DISTRICT COUNCIL** (contact officer Michael Carran, Assistant Director for Economic Growth and Leisure) of Town Hall, Station Road, Clacton-on-Sea, Essex, CO15 1SE (“the Council”); and

(2)     (“the Operator”).

**Interpretation:**

“the Term” means from to the inclusive.

“the Fee” means the sum of £     for the Term

“the Parties” are the Council and the Operator.

“the Plan” means the plan annexed to this Operating Agreement and marked “Plan”.

“the Route” is the area edged red on the Plan, located on the Lower Promenade between Pier Gap, Clacton-on-Sea Essex and the turning space outside Kiosk 7 (“Beaches”), Marine Parade East, Clacton-on-Sea Essex and remains the property of the Council at all times.

“Sea Front Train” means the train including the engine and carriages owned by the Operator.

“the Service” is the provision of a seafront train service to the public in accordance with the Operating Agreement.

**Background:**

The Parties have agreed that the Operator is to run the Service along the Route with the agreement of the Council.

**Agreement:**

1. The Council grants the Operator the right to operate the Service as described in the Schedule of Special Conditions attached hereto during the Term.

2. The Contractor will pay the Fee to the Council on or before the date of this Operating Agreement for the right to operate the Service.
3. The Sea Front Train belongs to the Operator and the Operating Agreement gives the Operator the right use it in accordance with the Operating Agreement only.
4. The Operator agrees to operate the Service strictly in accordance with the provisions and obligations that are set out in the Schedule of Special Conditions attached hereto. In particular, the Operator must ensure the Service is available for the benefit of the public on all the dates and at all times stated in the Schedule of Special Conditions.
5. The Council will monitor the Service to ensure compliance with the Schedule of Special Conditions and any breach may result in the Operating Agreement being immediately terminated by the Council.

**SIGNED** on behalf of the Council

by

in the presence of:

**SIGNED** on behalf of

.....

in the presence of:

.....

**TENDRING DISTRICT COUNCIL**

**Schedule of Special Conditions Relating to the  
Provision and Operation of a Seafront Train Service on the Lower Promenade, Clacton  
on Sea, Essex**

**1. Location**

The Service is to operate along the Route.

**2. Length of Agreement**

The Term agreed.

**3. Hours of Operation**

The Operator can provide the Service seven days a week between the hours of 8am and 8pm during the Term, as agreed.

**4. Restrictions**

- a. The Operator must not under any circumstances carry passengers on the train on any part of the highway that has not been approved as the Route for the purposes of the VSO Certificate
- b. The Operator must hold all required statutory licences, insurances and permissions for the train and its carriages, together with all necessary drivers' licences. The Council must be provided with copies of all of these.
- c. The Operator is to indemnify the Council against any claim arising from the operation of the Service either directly or indirectly and provide the Council with proof of Public Liability Insurance in the minimum value of £10 million for each occurrence, covering the Term.
- d. The Operator is to ensure that he/she provides adequate facilities to ensure that no littering of the Promenade occurs and that any litter occurring as a result of his/her operation is removed to the Operators licensed tip and not deposited into the Councils litter bins which are provided for public use.
- e. The Operator must clearly display a notice showing the charges for the Service but the Operator shall not without the express permission of the Council, whose consent will not be unreasonably withheld, erect signage or mark the Promenade advertising the Service.
- f. The Operator is to ensure that the Sea Front Train does not damage or drop or leak fluid, or fuel, on any part of the Promenade or road.
- g. The Operator is to keep the Sea Front Train in a safe, clean and tidy condition and provide to the Council an inspection certificate by an engineer, accepted by the Vehicle Certification Agency that the train is in a suitable condition to operate safely.

OFFICIAL SENSITIVE

- h. The Operator is to ensure the safety of both passengers and other users of the Promenade whilst operating the Service.
- i. The Council will monitor the Service provided to ensure compliance with the Operating Agreement, and any breach may result in the Operating Agreement being terminated.
- j. The Operator shall be responsible for providing safety signage along the length of the Route at all access points to the promenade e.g. steps and slopes. As well as any additional points identified in his risk assessment or requested by the Council
- k. The Operator is to use the Sea Front Train for the Service only and is not to allow any other forms of hire or sales to take place from the Sea Front Train while on any part of the Council's property.
- l. The Operator is required to provide at his own expense all tickets and other materials required to operate the Service.
- m. The Operator is not to tout or permit touting for customers by either crying of wares or importuning persons to purchase.
- n. The Operator is responsible for the proper conduct of their employees and for the observance by them of the Operating Agreement.
- o. If the Council authorises another party to operate a seafront train on the Route the Operator will take all necessary steps to cooperate with that third party in terms of the operation of the trains in order to ensure the safety of all passengers, staff or members of the public.
- p. If a second train operates as o. above the Operator will cooperate such that the trains pass only in the parts of the Route other than where benches, bins or other furniture reduce the width of the promenade.
- q. The Operator must put in place a risk assessment and operational procedures and operate the Train and all aspects of the Service in accordance with the same.
- r. The Operator must keep the risk assessment and operational procedures under review and comply promptly with any reasonable safety requirement of the Council.