

Agreement No. _____ (this "**Agreement**")

Entered and signed this _____ day of _____ 2026
(the "**Effective Date**")

between

Israel Railways Ltd.

Company No. 52-004361-3

a company duly incorporated and registered under Israeli law,
with the main offices at Darkei Moshe 3, Lod, Israel

("ISR")

Of the First Part

and

(the "**Contractor**")

Of the Second Part

Whereas, ISR has published Tender No. 42240 (the "**Tender**"), inviting proposals for the supply of Timetabling & Track Possession System (the "**System**"), as described below; and

Whereas, the Contractor has submitted a proposal in response to the Tender; and

Whereas, the Contractor represents that on _____ it entered into an agreement with the Israeli Ministry of Industry and Trade, acting through the Industrial Cooperation Authority ("**ICA**"), regarding offset procurement obligations to be carried out in connection with the Works; and

Whereas, ISR has selected the Contractor to supply the System and to perform the Works, all in accordance with the terms and conditions of this Agreement; and

Whereas, the Contractor represents and warrants that it possesses the know-how, capability, expertise, means, tools, financial and other resources, experience, Intellectual Property Rights, and all rights and Permits required for the performance and completion of all of its obligations and undertakings under this Agreement;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and covenants set forth herein, the Parties hereby agree as follows:

1. PREAMBLE; ANNEXES AND HIERARCHY

- 1.1. The preamble to this Agreement, together with its annexes, exhibits and schedules, forms an integral part hereof.
- 1.2. The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement in any way.
- 1.3. The Annexes to this Agreement are listed hereunder:

Annex	Name
A	Technical Specifications
B	Consideration
B1	Milestones and Payment Table
C	Contractor's Proposal
D	Contractor's Bank Account Form
E	Project Timetable
F	Performance and Warranty Guarantee
G1	Payment Guarantee
G2	Acceptance Tests Criteria
H	Final Acceptance Certificate
I	Cyber and Information Security
J	SLA
K	Training Services
L	Warranty and Maintenance Terms
M	Change Order
N	<i>Escrow Agreement (will be attached within six (6) months from the POD)</i>

1.4. Order of Precedence.

In the event of any contradiction, discrepancy, conflict, inconsistency, ambiguity and/or uncertainty between the provisions of this Agreement, the attachments hereto and/or the Tender, the following order of precedence shall apply:

- This Agreement, including the Consideration Annex, but excluding the other attachments hereto;
- The other annexes to this Agreement including the Technical Specifications;
- The other Tender documents (excluding Attachment B to the Tender);
- Contractor's Proposal to the Tender.

- 1.5. In case of any discrepancy, conflict, inconsistency, ambiguity and/or uncertainty as to the interpretation of any provision contained in this Agreement and/or the order of precedence between the various provisions contained in this Agreement,

which discrepancy, ambiguity, conflict, inconsistency or uncertainty is not resolved by applying the above order of precedence, those provisions that provide ISR with the maximum rights and which best serve the interest of ISR under the circumstances, as ISR shall determine at its sole discretion, shall apply.

- 1.6. Except as otherwise specifically indicated, all references to Sections refer to Sections of this Agreement, and all references to Annexes refer to Annexes to this Agreement. Annexes to be attached hereto after the Effective Date shall be deemed an integral part of this Agreement. The words "herein," "hereof," "hereinafter," and similar words and phrases, shall refer to this Agreement as a whole and not to any particular Section. The word "days" shall mean a calendar day and the term "Business Days" shall have the meaning ascribed to it in Section 2. Whenever required by the context of this Agreement, the singular shall include the plural, the masculine shall include the feminine and vice versa.

2. DEFINITIONS

The following terms used in this Agreement shall have the meaning set forth below:

- 1.1 **"Acceptance"** - shall mean ISR's issuance of a signed Final Acceptance Certificate in the form attached hereto as **Annex H**, following delivery of the System, the performance of all tasks required to bring the System to full operational condition and the successful performance of the Acceptance Tests, the completion of the Training as well as the fulfillment of all required obligations pursuant to this Agreement;
- 1.2 **"Agreement Period"** – as defined in Section [444](#);
- 1.3 **"Applicable Law"** – shall mean any Israeli statute, law, ordinance, rule, regulation, order, writ, injunction, judgment, decree, and all other requirements of any governmental entity existing as of the date hereof or at any time during the term of this Agreement and applicable to ISR and/or Contractor;
- 1.4 **"Business Days"** - any day of the week other than Friday and Saturday, and excluding official holidays and bank holidays in Israel;
- 1.5 **"CPM"** - Contractor's project manager for this Agreement, as set forth in Section [19.119.119.1](#) and as may be changed from time to time at ISR's sole discretion by notification in writing to the Contractor;
- 1.6 **"IPM"** – ISR's project manager for this Agreement, as set forth in Section [19.119.119.1](#) and as may be changed from time to time at ISR's sole discretion by notification in writing to Contractor;
- 1.7 **"POD"** – Purchase Order Date;
- 1.8 **"Supply Time"** – as defined in Section [8.38.38.3](#);

- 1.9 **"Technical Specifications"** – the technical specifications attached hereto as **Annex A**;
- 1.10 **"System"** – Timetabling & Track Possession System which complies with the Technical Specifications, attached herein as **Annex A**;
- 1.11 **"System Price"** – as defined in Section ~~14.114.114.1~~;
- 1.12 **"Warranty Period"** – as defined in Section ~~101010~~;
- 1.13 **"Works"** – shall mean all works and components to be executed or supplied by Contractor, directly or indirectly, in connection with the design, development, supply, tests, training and warranty of the System pursuant to this Agreement. Works shall include but shall not be limited to, works to be implied therefrom or incidental thereto and including all temporary works of every kind required in or for carrying out and completion of the Works, provision of all labor, provision and use of software and other elements of every kind and description (including Intellectual Property Rights), all in accordance with the Technical Specifications and this Agreement.

3. REPRESENTATIONS AND WARRANTIES

3.1. Representations and Warranties of the Contractor

The Contractor hereby represents, warrants and covenants to ISR that:

- 3.1.1. Execution Condition; No Binding Effect on ISR Prior to Signature. Unless and until this Agreement is duly executed by ISR, ISR shall not be bound by any of its terms and this Agreement shall have no force or effect with respect to ISR. ISR may, at any time and in its sole discretion, withdraw from its intention to execute this Agreement and/or discontinue negotiations relating hereto, with or without notice and without stating any reason, and the Contractor undertakes not to assert or bring any claim, demand or cause of action of any kind against ISR in connection therewith. This Section ~~3.1.13.1.13.1.1~~ shall automatically terminate and be of no further force or effect upon execution of this Agreement by ISR.
- 3.1.2. Compliance with Tender Pre-Requisites; Continuing Accuracy; Tender Updates Prevail.
- 3.1.2.1. The Contractor represents, warrants and undertakes that it has complied, and shall continue to comply throughout the Agreement Period, with all pre-requisites, threshold requirements and eligibility conditions set forth in the Tender (the "Tender Pre-Requisites").
- 3.1.2.2. The Contractor further represents, warrants and undertakes that all representations, statements, declarations and undertakings made or submitted by it in the framework of the Tender (including in the Contractor's Proposal and any accompanying or subsequent submissions) (the

“Contractor’s Representations”) are, and shall remain throughout the Agreement Period, true, accurate, complete and not misleading.

- 3.1.2.3. In the event of any change, inconsistency or conflict between versions of the Tender documents, the latest Tender version as duly published by ISR (including any written addendum, clarification or update formally published by ISR, an “ISR Tender Update”) shall prevail and be binding. For the avoidance of doubt, only an ISR Tender Update duly published by ISR shall be binding upon the Parties; no oral statements, correspondence, or changes not formally published by ISR shall have any force or effect.
- 3.1.2.4. The Contractor acknowledges that the Tender Pre-Requisites and the Contractor’s Representations constitute a fundamental and material condition of this Agreement. Accordingly, if at any time: (i) the Contractor ceases to satisfy any Tender Pre-Requisite; and/or (ii) any Contractor’s Representation (including any representation relating to any Subcontractor or any person acting on behalf of the Contractor) is found to have been untrue, inaccurate, incomplete or misleading in any material respect, then ISR shall be entitled, in addition to and without prejudice to any other rights and remedies available under this Agreement and/or applicable law (including the right to claim damages), to terminate this Agreement, in whole or in part, by written notice to the Contractor.
- 3.1.2.5. The Contractor shall promptly notify ISR in writing upon becoming aware of any circumstance that may reasonably be expected to cause a breach of this Section ~~3.1.23.1.23.1.2~~.
- 3.1.3. Organization; Good Standing; Authority; Enforceability. The Contractor is a corporation duly organized, validly existing and in good standing law and is duly qualified and registered to transact business in all jurisdictions in which the performance of its obligations under this Agreement so requires. The Contractor has all requisite corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement by the Contractor have been duly and validly authorized by all necessary corporate action, and no other corporate proceedings are required. This Agreement has been duly and validly executed and delivered by the Contractor and constitutes the legal, valid and binding obligation of the Contractor, enforceable against it in accordance with its terms.
- 3.1.4. No Violation. The execution, delivery and performance of this Agreement by the Contractor do not and will not (i) violate any applicable law, regulation, rule, order or decree, or (ii) conflict with, result in a breach of, or constitute (with or without notice or lapse of time, or both) a default under, or give rise to any right of termination, cancellation, acceleration or modification under, any agreement, covenant, order, judgment or decree to which the Contractor is a party or by which it or any of its assets is bound.

- 3.1.5. No Conflict of Interest or Unfair Competitive Advantage. No actual or potential conflict of interest or unfair competitive advantage exists with respect to the Contractor's activities under this Agreement. The Contractor shall not enter into any arrangement or engage in any activity that may create such a conflict of interest or unfair competitive advantage in connection with the performance of its obligations hereunder.
- 3.1.6. Non-Infringement of Third-Party Rights. The execution of this Agreement and the performance of the Works by the Contractor do not and will not infringe, misappropriate or otherwise violate any Intellectual Property Rights or other proprietary rights of any third party.
- 3.1.7. Malicious Code. The Contractor shall use best industry practice to prevent the introduction and proliferation of any Malicious Code into ISR's information technology environment, the System or any other system of ISR. "Malicious Code" means:
 - 3.1.7.1. any code, program or other software whose known or intended purpose is to damage or interfere with the operation of any system, or to halt, disable or otherwise interfere with the operation thereof;
 - 3.1.7.2. any device or method that permits any person to circumvent the normal security of the system containing such code; or
 - 3.1.7.3. any code, program, software, device or other method whose known or intended purpose is to trace, copy or map out the system containing such code.
- 3.1.8. No Litigation or Other Impediment. There is no (i) action, suit, claim, arbitration, investigation or other legal proceeding, pending or, to the Contractor's knowledge, threatened, that challenges or may reasonably be expected to challenge the authority or ability of the Contractor to enter into this Agreement or to perform its obligations hereunder, or (ii) legal, contractual or other impediment that would prevent, materially delay or materially hinder the Contractor from entering into this Agreement or from duly performing any of its obligations hereunder.
- 3.1.9. Contractor's Representations in the Tender.
 - 3.1.9.1. The Contractor acknowledges that the Contractor's Representations (as defined in Section ~~3.1.23.1-23.1.2~~) are deemed to form an integral part of this Agreement and shall be binding upon the Contractor for all purposes, whether or not explicitly restated herein. No reservation and/or exception with respect to the Contractor's Representations shall be binding unless explicitly incorporated into this Agreement.
 - 3.1.9.2. The Contractor understands and acknowledges that ISR has entered into this Agreement in reliance upon the Contractor's Representations.
 - 3.1.9.3. Except for ISR's express representations set forth in this Agreement, ISR and/or any of its employees, directors, officers, advisors and consultants shall not be liable for any representation and/or information provided to the Contractor during the Tender procedure and/or negotiations. The Contractor waives any claim or demand

against ISR and/or any such persons in connection therewith, except as expressly provided in this Agreement.

3.1.10. Examination, Evaluation and Acknowledgment of ISR's Needs.

- 3.1.10.1. The Contractor has examined all documents pertaining to the Tender and to this Agreement, including the Technical Specifications and all other documents forming part of this Agreement, and is satisfied with the specifications, terms and conditions pursuant to which the System and the Works shall be designed, manufactured, assembled, integrated, tested, supplied, delivered and performed.
- 3.1.10.2. The Contractor has independently evaluated (without reliance on information or data provided by ISR, except as expressly stated in this Agreement) all factors that may affect performance, including technical risks, environmental conditions and any other risks and conditions that may reasonably be expected to affect progress or completion of the Works, and has reasonable grounds to believe, and does believe, that such performance is feasible and practicable under this Agreement.
- 3.1.10.3. The Contractor acknowledges that it has reviewed the information made available to it by ISR (including ISR's applicable rules and procedures) and understands ISR's objectives, goals and needs with respect to the Works.
- 3.1.10.4. The Contractor shall not be entitled to any payment, consideration or compensation other than as expressly set forth in this Agreement, and shall have no claim against ISR for additional payment based on any misunderstanding, misapprehension or mistake regarding any matter which a reasonable and expert contractor ought to have known, or on any allegation that incorrect information was provided where such incorrectness was, or ought reasonably to have been, identifiable by a reasonable and expert contractor.
- 3.1.10.5. The Contractor shall comply with ISR's applicable instructions, rules, procedures and regulations provided by ISR from time to time, and shall ensure compliance therewith by its Subcontractors and any other third party acting on its behalf, in accordance with Section [3.1.173.1.173.1.17](#).

3.1.11. Compliance with Applicable Law. The Contractor is aware of all applicable legal requirements in force in the State of Israel in connection with the execution of the Works, and shall comply with all applicable laws, regulations, rules, orders and guidelines, as in effect from time to time, including all requirements relating to the employment and engagement of its employees and personnel.

3.1.12. Discrepancies and Omissions.

- 3.1.12.1. The Contractor represents that, where there is any discrepancy between the Technical Specifications, the Contractor's proposal to the Tender, any drawings or any other documents forming part of this Agreement, the Contractor's prices reflect the type and quality best suited to ISR and consistent with the Technical Specifications. No inaccuracies, errors, omissions, discrepancies, contradictions or ambiguities shall

constitute grounds for stoppage or suspension of the Works, for relieving the Contractor from its obligations, or for termination by the Contractor, unless otherwise decided by ISR following the Contractor's written request.

- 3.1.12.2. If any works, matters or things required for the proper execution and completion of the Works are omitted from this Agreement, ISR's Project Manager (the "IPM", as set forth in section ~~19.119.119.1~~) shall, upon notice from the Contractor or on the IPM's own initiative, provide explanations and instructions and determine what is to be carried out and in what manner and sequence. The Contractor shall perform such items as instructed by ISR after consultation with the Contractor. If such instruction impacts price, payment terms or timetable, such matters shall be settled by mutual written agreement in accordance with Section 19 herein (with prices based on the Consideration Annex), without derogating from the Contractor's obligation to execute the Works as instructed.
- 3.1.12.3. The Contractor shall notify ISR in writing immediately, and in any event no later than five (5) days after becoming aware, of any suspected or actual contradiction, discrepancy or omission in or between the documents forming this Agreement.
- 3.1.13. Review and Approval by ISR. Wherever ISR's consent or approval is required under this Agreement, the Contractor shall apply to ISR to obtain such consent or approval in writing. The requirement to obtain ISR's consent or approval, and the granting or withholding thereof, shall not derogate from the Contractor's responsibilities, duties, obligations or liabilities. ISR shall bear no responsibility or liability in connection with its review of, objection to, or consent or approval (granted or withheld) with respect to any matter or document.
- 3.1.14. Independent Contractor; Cooperation with Third Parties. The Contractor is an independent contractor, acting at its own risk and for its own account, and is solely responsible for all of its financial and other obligations. Nothing herein creates a joint venture, partnership, employment relationship or agency between the Parties, nor any relationship between ISR and the Contractor's employees, subcontractors, representatives or agents. The Contractor shall have no authority to assume or create any obligation on behalf of ISR. The Contractor shall reasonably cooperate with any other supplier, contractor, consultant and/or third party from whom ISR elects to procure services in connection with the Works, and shall provide ISR with information reasonably required for interfaces between the System and ISR infrastructure/equipment.
- 3.1.15. Importance of Performance; No Suspension of Works. The Contractor acknowledges the importance of full, complete and timely performance of the Works and the impact on ISR's operations, and undertakes not to cease, suspend and/or postpone performance except as explicitly permitted under this Agreement.
- 3.1.16. Quality Assurance. The Contractor shall hold, maintain and keep in full force and effect, throughout performance of the Works, a valid quality management system certificate in accordance with ISO 9001:2000 (or any updated/superseding standard accepted by ISR in writing).

3.1.17. Subcontractors and Third Parties Acting on Contractor's Behalf – Flow-Down; Ongoing Monitoring; Immediate Notice.

- 3.1.17.1. The Contractor shall be fully responsible and liable for the acts and omissions of any Subcontractor, any personnel of a Subcontractor, and any other person acting directly or indirectly on the Contractor's behalf, as if such acts and omissions were those of the Contractor.
- 3.1.17.2. The Contractor shall ensure, as a condition to engaging any Subcontractor or other third party, that all relevant obligations, requirements, representations, warranties and undertakings under this Section 2.1 (including, without limitation, the Tender Pre-Requisites and the Contractor's Representations, as applicable) are validly flowed down and are binding upon such Subcontractor/third party and its personnel, and the Contractor shall remain responsible for their compliance at all times.
- 3.1.17.3. Throughout the Agreement Period, the Contractor shall implement and maintain adequate controls to verify ongoing compliance by the Contractor and by all Subcontractors/third parties acting on its behalf with the obligations and statements under this Section ~~3.13.13.1~~, including by conducting periodic and regular compliance checks. The Contractor shall promptly take corrective actions to address any non-compliance and shall keep written records of such checks and corrective actions, and provide them to ISR upon request.
- 3.1.17.4. The Contractor shall notify ISR in writing immediately upon becoming aware of any actual or suspected breach or non-compliance with this Section ~~3.13.13.1~~ by the Contractor and/or by any Subcontractor/third party or any of their personnel, and shall include in such notice the details reasonably available to the Contractor and the corrective actions taken or proposed.
- 3.1.17.5. The Contractor represents and warrants that it has brought the contents of this Section ~~3.13.13.1~~ to the attention of its Subcontractors and any other relevant third parties and/or their personnel, that they have agreed to be bound accordingly to the extent applicable, and that the Contractor has taken reasonable measures to verify that any representations made by or in respect of such Subcontractors/third parties for purposes of this Agreement are true, accurate, complete and not misleading.

3.2. Representations and Warranties of ISR

ISR represents and warrants to the Contractor that:

- 3.2.1. It is a corporation duly organized, validly existing and in good standing under the laws of the State of Israel.
- 3.2.2. It has all requisite corporate power and authority to execute and deliver this Agreement and to perform its obligations and undertakings hereunder.
- 3.2.3. The execution of this Agreement by ISR have been duly authorized by all necessary corporate action, and this Agreement has been

duly executed and delivered by ISR and constitutes the legal, valid and binding obligation of ISR, enforceable against ISR in accordance with its terms (subject to applicable bankruptcy, insolvency, reorganization and other laws of general application relating to or affecting creditors' rights and to general principles of equity).

- 3.2.4. Notwithstanding the abovementioned, the execution of this Agreement shall be subject to and following the receipt of the necessary budgetary approvals.

4. AGREEMENT PERIOD

- 4.1. This Agreement shall commence on the Effective Date and shall continue in full force and effect for a period of ten (10) years (the "**Agreement Period**" or "**Term**").
- 4.2. The Contractor hereby grants ISR an option, to be executed upon ISR's sole discretion, to extend the term of this Agreement for additional periods of two (2) years each, up to a total of ten (10) additional years (the "**Option Period**").
- 4.3. The terms and conditions of this Agreement shall continue to apply *mutatis mutandis* to the Option Period. In the event that ISR wishes to exercise this option, it shall notify Contractor in writing at least sixty (60) days prior to the end of the Agreement Period.

5. PERFORMANCE OF THE WORKS; GENERAL OBLIGATIONS

In performing the Works hereunder, the Contractor shall comply with the following general guidelines and procedures, in addition to those set forth in the Technical Specifications and any other specific guidelines and instructions that ISR may issue from time to time.

5.1. Performance of Works

- 5.1.1. **Quality and Standards.** All Works performed by the Contractor and/or its Subcontractors shall meet the standards set out by ISR in this Agreement and/or in the Technical Specifications. To the extent that no specific standard is expressly mentioned, the Contractor shall comply with standards that ensure the highest quality of workmanship, materials and equipment.
- 5.1.2. **Design and Engineering.** All calculations, designs and drawings relating to the Works and the System shall be accurate, complete and consistent, and shall ensure consistency of design. The development and design of the System and all ancillary facilities and systems shall be carried out in accordance with accepted engineering practices and shall be appropriate and suitable for the proper, safe and reliable operation of the Works.
- 5.1.3. **Timetable and Operational Readiness.** The Works shall be performed in accordance with the Project Timetable attached hereto as **Annex E**, and in such a manner that, upon completion, the System will be fully operational and shall constitute a

performing, operating, functioning, safe and reliable system, all in strict conformity with the requirements of this Agreement, including, for the avoidance of doubt, the Technical Specifications.

- 5.1.4. **Turn-Key Obligation; Responsibility for Costs.** The System shall be supplied on a “turn-key” basis, such that the Contractor shall, at its sole expense and risk, perform any and all Works required in accordance with the provisions of this Agreement. Without limiting the generality of the foregoing, the Contractor shall be solely responsible, at its own expense and risk, for carrying out any and all Works, supplying, installing, integrating, testing, and delivering any and all components and Software required for the launching and deploying the System, and for performing any and all activities and bearing and paying all costs and expenses relating to the performance of the Works, except as expressly stated otherwise in this Agreement.

5.2. Software

- 5.2.1. **Version and Quality.** All Equipment and Software used in the manufacture, integration and assembly of the Works, whether or not manufactured by the Contractor itself: (i) shall be of the newest version and latest release that is generally available as of the relevant date; (ii) shall not be subject to any announced end-of-life or termination of manufacture; and (iii) shall be made of materials of such standard and quality as specified in the Technical Specifications, and, to the extent that no standard is expressly mentioned, the Contractor shall comply with standards that ensure the highest quality of materials.
- 5.2.2. **Defects and Inferior Specifications.** All Equipment and Software to be provided by the Contractor shall be free of failures, faults, defects, faulty materials and/or poor workmanship, and shall comply with the requirements stipulated in this Agreement, including, for the avoidance of doubt, the Technical Specifications. The Contractor shall not be entitled to use, in connection with the Works, any material, equipment or software the specifications of which are in any respect inferior to those specified in the Technical Specifications or in the Contractor’s Technical Proposal, whichever ISR determines, at its sole and absolute discretion, to be of higher quality.
- 5.2.3. **State-of-the-Art Software.** All Software to be provided by the Contractor or on its behalf shall meet state-of-the-art standards applicable to similar systems and applications.
- 5.2.4. **Prohibited Technical Restrictions and Devices.** The System (including, for the avoidance of doubt, all Software) shall not incorporate, and the Contractor has not and will not at any time insert into the Software or the System, any lock, clock, timer, counter, copy-protection feature, CPU serial-number reference, or any other device or mechanism that is intended to: (i) disable, erase, alter or otherwise adversely affect all or any part of the System or the Software; and/or (ii) prevent ISR from fully utilizing

all or any part of the System or the Software; and/or (iii) require any action or intervention by the Contractor or any other person or entity in order to allow ISR to utilize all or any part of the System or the Software.

- 5.3. **Removal or Replacement of Personnel.** The Contractor shall comply with, and shall cause its Subcontractors to comply with, any instruction of ISR regarding the removal or replacement of any member of the Contractor Personnel or Subcontractor Personnel from any ISR site, if ISR is of the opinion that such person lacks sufficient competence and/or is acting improperly and/or is performing his/her work in a negligent or unsatisfactory manner. The Contractor shall promptly replace any such person, at its own expense, with personnel of appropriate qualifications and experience.
- 5.4. **Coordination of the Works with ISR.** Unless ISR specifically agrees otherwise following a written request by the Contractor, no special measures with respect to train or passenger traffic shall be taken in order to allow the performance of the Works. Accordingly, the Contractor shall not, at any time during the execution of the Works, interfere with, obstruct or cause any interference or obstruction to ISR's activities and operations, and shall coordinate its activities with ISR at all times. For the avoidance of doubt, the Contractor may be required to perform parts of the Works during night hours, during weekends (between Friday evening and Saturday night) and during holidays, at no additional charge to ISR. For this purpose, the Contractor shall obtain, at its own expense, all required permits from the Ministry of Labor pursuant to the Hours of Work and Rest Law, 5711-1951, and/or any other applicable law.
- 5.5. **Permits.** The Contractor shall, at its sole expense, obtain, maintain in full force and effect, comply with and keep valid throughout the entire term of this Agreement, all approvals, permits, licenses and authorizations required under any applicable law for the execution of the Works (the "**Permits**").
- 5.6. **Cyber and Information Security.**
 - 5.6.1. The Contractor will comply with all of ISR's Cyber and Information Security requirements attached as **Annex I**.
 - 5.6.2. The Contractor will be responsible to ensure that all ISR's information transmitted to him, including reports, forms, e-mail, and magnetic media, will be preserved by what is stated in the appendices and accordance with the instructions of the Cyber and Information security personnel at ISR.
 - 5.6.3. The Contractor will follow all the instructions of ISR and bodies that ISR acts according to their instructions, such as the Israel Police and the State Authority for Information Security, and any other security authority in connection with the provision of Works.
 - 5.6.4. The Contractor will present to the IPM or to ISR's cyber and information security personnel, according to their request, the method it uses for information security.
 - 5.6.5. The Contractor undertakes to act to correct any problem or issue related to information and/or cyber security immediately upon request of the IPM.

5.7. Personnel

For the purposes of this Section ~~5.75.75.6~~, “**Contractor Personnel**” shall mean any employees, officers, directors, consultants, agents and Subcontractors of the Contractor, and any employees, officers, directors, consultants and agents of any such Subcontractors. The Contractor shall ensure that all obligations set forth in this Section ~~5.75.75.6~~ are fully complied with by all Contractor Personnel.

- 5.7.1. **Engagement and Sufficiency of Personnel.** The Contractor shall employ and/or engage such trained and skilled Contractor Personnel as shall be necessary or appropriate to enable the Contractor to perform the Works, supply the System and provide the Warranty in accordance with this Agreement. The Contractor shall provide a sufficient number of Contractor Personnel appropriate to the size, nature and type of Works to be carried out under this Agreement. If at any time the Contractor or ISR reasonably deems the Contractor Personnel to be insufficient for the timely performance of the Works, the Contractor shall forthwith and within a reasonable time increase the number of competent Contractor Personnel accordingly.
- 5.7.2. **Permits and Authorizations for Personnel.** The Contractor shall be solely responsible, at its own expense, to obtain and maintain any and all permits, approvals, clearances and other authorizations required under Applicable Law with respect to the Contractor Personnel, including, without limitation, work permits for foreign personnel (including permits issued by the immigration authorities) and any security clearances that may be required by ISR. The foregoing shall also apply to permits to work on Shabbat and on Jewish and Israeli national holidays pursuant to the Hours of Work and Rest Law, 5711–1951, and/or any other Applicable Law. The Contractor shall ensure that equivalent permits and authorizations are obtained and maintained for all Subcontractors and their respective personnel, where applicable.
- 5.7.3. **No Relief for Lack of Permits.** For the avoidance of doubt, in the event that any such permits, approvals or clearances (or any of them) are not obtained or not obtained on time: (i) the Contractor shall not be entitled to any extension of time or other relief or excuse for delay in the performance of the Works; and (ii) the Contractor shall not be released from any of its obligations under this Agreement. In such circumstances, the Contractor shall, subject to Applicable Law, employ and/or engage alternative Contractor Personnel and/or perform such Works as do not require such permits, approvals or clearances. The Contractor is aware that obtaining such permits may require a considerable period of time, and shall perform all actions reasonably required to ensure that such permits, approvals and clearances are granted in due time.
- 5.7.4. **Availability and Response Capability.** Without derogating from the above, the Contractor shall ensure that adequate additional Contractor Personnel are available at any time, as may be reasonably required by ISR, to enable the Contractor to fulfill its

obligations under this Agreement, including, without limitation, in order to perform the Works and to provide an ongoing and timely response to malfunctions, bugs, defects and/or discrepancies.

- 5.7.5. **Responsibility for Acts and Omissions of Personnel.** The Contractor shall at all times retain full and exclusive responsibility for the due performance of its obligations by the Contractor Personnel and for the satisfactory completion of the Works. The Contractor shall be liable for any act and/or omission of any Contractor Personnel in connection with this Agreement and/or the Works, whether such Contractor Personnel are employees of the Contractor or are otherwise engaged by or through the Contractor (including Subcontractors and/or their employees and/or their agents), as if such act and/or omission were the act and/or omission of the Contractor itself.
- 5.7.6. **Safety and Security Compliance by Personnel.** The Contractor shall procure that all Contractor Personnel comply with all safety and security regulations, procedures and instructions of ISR, as may be required by ISR from time to time at its sole discretion, and with any Applicable Law relating to safety and security at work.
- 5.7.7. **Removal and Replacement of Personnel; No Additional Costs.** ISR shall be entitled, at any time and from time to time, to instruct the Contractor to remove and/or replace any member of the Contractor Personnel from any ISR site (including, without limitation, personnel present in Israel), provided that such instruction is reasonable under the circumstances. Without prejudice to the generality of the foregoing, ISR may issue such instruction if, in ISR's opinion, such person lacks sufficient competence and/or is acting improperly and/or is performing his/her work in a negligent or unsatisfactory manner. The Contractor shall comply with any such instruction and shall promptly, and in any event within thirty (30) days of ISR's request (or such shorter period as ISR may reasonably require in urgent circumstances), appoint or cause the relevant Subcontractor to appoint a skilled and suitably qualified replacement. The Contractor shall have no claim for, and shall bear and be solely responsible for, any and all costs and expenses arising out of or incidental to any such removal and/or replacement of Contractor Personnel, including any labor-related costs.
- 5.7.8. **No Employment Relationship with ISR; Personnel Indemnity.** The Contractor acknowledges and agrees that, under no circumstances whatsoever, shall any Contractor Personnel be deemed to be employees of ISR. All matters pertaining to the employment, engagement, training, conduct, supervision, compensation, promotion, discipline and discharge of Contractor Personnel shall be the sole and exclusive responsibility of the Contractor and/or the relevant Subcontractor, as the case may be. The Contractor shall comply, and shall ensure that all Subcontractors comply, with all Applicable Laws and regulations relating to worker's compensation, social security, unemployment

insurance, hours of labor, wages, working conditions, safety and similar matters with respect to the Contractor Personnel.

- 5.7.9. The Contractor shall indemnify, defend and hold harmless ISR and its directors, officers and employees from and against any and all claims, demands, suits, losses, damages, liabilities, costs and expenses (including reasonable attorney's fees and other legal expenses) made or brought by or on behalf of any Contractor Personnel against ISR, and/or arising directly or indirectly from: (i) any negligent, reckless or intentionally wrongful act or omission of any Contractor Personnel; (ii) any determination by any court, tribunal or governmental authority that the Contractor and/or any Contractor Personnel is, or was, not an independent contractor (or equivalent) of ISR; or (iii) any breach by any Contractor Personnel of any of the covenants, obligations or undertakings contained in this Agreement. The foregoing indemnity shall survive the expiration or termination of this Agreement for any reason.
- 5.7.10. **Taxes and Statutory Payments.** The Contractor acknowledges and agrees that it is solely responsible for reporting as income all consideration and payments received by it under this Agreement, and for paying all applicable taxes, levies, charges and statutory payments in connection therewith, including, without limitation, any corporate, income, payroll, social security, withholding and other taxes imposed by any competent authority with respect to the Contractor Personnel. The Contractor agrees to indemnify and hold harmless ISR and its directors, officers and employees from and against any and all taxes, assessments, fines, penalties, interest, losses, damages, liabilities, costs and expenses (including reasonable attorney's fees) arising from the Contractor's failure to make any such payment or to comply with any such obligation.
- 5.7.11. **Costs and Expenses of Personnel.** Without derogating from any other provision of this Agreement, the Contractor shall bear and be solely responsible for any and all costs and expenses relating to the Contractor Personnel, including, without limitation, travel, accommodation, lodging, subsistence and daily expenses. The Contractor shall also be responsible for, and shall bear all costs and expenses associated with, obtaining visas, work permits, residence permits and any other permits or approvals required in connection with any services provided by Contractor Personnel in Israel (or in any other jurisdiction in which the Works are performed).
- 5.7.12. Subcontractors – Full Responsibility; Flow-Down; Ongoing Monitoring; Immediate Notice.
- 5.7.12.1. Without derogating from any other provision of this Agreement (including, without limitation, Section [5.7.55.7.55.6.5](#)), the Contractor shall remain fully and solely responsible for the performance of the Works by any Subcontractor and any person acting on behalf of, through, or under any Subcontractor, and shall be liable for any act and/or omission of any such persons as if

such act and/or omission were the act and/or omission of the Contractor.

- 5.7.12.2. The Contractor shall ensure, as a condition to engaging and throughout the engagement of any Subcontractor, that such Subcontractor and its personnel are bound by written obligations that are no less stringent than the relevant obligations of the Contractor under this Agreement, including (as applicable) obligations relating to quality, safety, security, compliance with Applicable Law, and ISR's instructions and procedures (the "Flow-Down Obligations"). The Contractor represents and warrants that it has brought the Flow-Down Obligations to the attention of its Subcontractors and their personnel, and that they have agreed to comply therewith to the extent applicable.
- 5.7.12.3. Throughout the Term, the Contractor shall implement and maintain adequate measures to verify compliance by the Contractor and by all Subcontractors (and their personnel) with the Flow-Down Obligations, including by conducting regular reviews, inspections and/or audits, and shall keep written records of such checks and any corrective actions taken. The Contractor shall provide such records to ISR upon request.
- 5.7.12.4. The Contractor shall notify ISR in writing immediately upon becoming aware of any actual or suspected breach or non-compliance with the Flow-Down Obligations by the Contractor and/or any Subcontractor (or any person acting on their behalf), and shall promptly take all corrective actions necessary to remedy such breach or non-compliance and to prevent its recurrence, all at the Contractor's sole cost and risk.

5.8. **Additional Services**

Additional services, being services or works to be provided by the Contractor at ISR's request beyond those specified in Technical Specifications, shall be performed upon mutual agreement between the parties in writing in accordance with the rates specified in Annex B.

6. **INITIATION, PLANNING, DESIGN, DEVELOPMENT AND TESTING SERVICES**

- 6.1. The Contractor shall design, develop and test the System, all in strict accordance with the Technical Specifications and agreed Project Timetable.
- 6.2. **Initiation & Planning Phase.** Within fifteen (15) Days of the Effective Date, the Contractor shall obtain ISR's approval of all documents and work plans constituting the deliverables of the Initiation & Planning Phase, as required in the Technical Specifications and the Project Timetable (the "**Initiation & Planning Phase Deliverables**"), in accordance with the following procedure: (a) The

Contractor shall prepare and submit the Initiation & Planning Phase Deliverables to ISR for its approval. (b) ISR shall provide its comments and/or rejections to the Initiation & Planning Phase Deliverables within five (5) Business Days of receipt. (c) The Contractor undertakes to promptly implement, and in any event no later than five (5) Business Days following receipt of ISR's comments and/or rejections, all changes and/or additions required by ISR.

The Initiation & Planning Phase shall be deemed completed, and the next phase, the Detailed Design Phase, shall commence upon the receipt of ISR's written approval that the Initiation & Planning Phase has been successfully completed.

- 6.3. **Detailed Design Phase.** Within two (2) months of the Effective Date, the Contractor shall obtain ISR's approval of all documents and work plans constituting the deliverables of the Detailed Design Phase, as required in the Technical Specifications (the "**Detailed Design Phase Deliverables**"), including a detailed design plan of the Works and all such flowcharts, designs, drawings, data, calculations and other documents as required therein, in accordance with the following procedure:

- (a) The Contractor shall prepare and submit the Detailed Design Phase Deliverables to ISR for its approval.
- (b) ISR shall provide its comments and/or rejections to the Detailed Design Phase Deliverables within fifteen (15) Business Days of receipt.
- (c) The Contractor undertakes to promptly implement, and in any event no later than fifteen (15) Business Days following receipt of ISR's comments and/or rejections, all changes and/or additions required by ISR.

The Detailed Design Phase shall be deemed completed, and the next phase, the System Development Phase, shall commence upon the receipt of ISR's written approval that the Detailed Design Phase has been successfully completed.

- 6.4. **System Development Phase.** Within four (4) months of the Effective Date, the Contractor shall obtain ISR's approval of all documents and work plans constituting the deliverables of the System Development Phase, as required in the Technical Specifications and the Project Timetable (the "**System Development Phase Deliverables**"), including all flowcharts, designs, drawings, data, calculations and any other documents as required therein, in accordance with the following procedure: (a) The Contractor shall prepare and submit the System Development Phase Deliverables to ISR for its approval. (b) ISR shall provide its comments and/or rejections to the System Development Phase Deliverables within fifteen (15) Business Days of receipt. (c) The Contractor undertakes to promptly implement, and in any event no later than fifteen (15) Business Days following receipt of ISR's comments and/or rejections, all changes and/or additions required by ISR.

Upon completion of the System Development Phase, ISR shall issue a written approval that the System Development Phase has been successfully completed.

- 6.5. **Supply and Installation phase.** Upon completion of the System Development Phase, the Contractor shall perform the installation of the System on ISR's designated servers in Israel, in full coordination with ISR and in accordance with the Technical Specifications (**Annex A**) and ISR's instructions. The installation shall include all required configuration, deployment activities, documentation, and verification steps necessary to ensure proper operation of the System within ISR's test & production environment.

- 6.6. **Acceptance Testing Program.** Following the Supply and Installation of the System, as set forth in Section ~~6.56.56.5~~, the Contractor shall perform Testing in strict accordance with the terms set forth in Acceptance Tests Criteria attach as **Annex G**. The Contractor shall deliver the applicable test results to ISR for its approval upon completion of each of the tests specified above. Upon ISR's approval of all such test results, ISR, with the support and assistance of the Contractor, shall perform acceptance tests on the System (the "**System Acceptance Tests**") in accordance with Annex G.
- 6.7. Upon the successful completion of the System Acceptance Tests to ISR's full satisfaction, Contractor shall complete and sign a Final Acceptance Certificate, in the form Attached hereto as **Annex H**, declaring that Contractor has fulfilled all of its obligations in accordance with the Agreement and that the System confirms to the standards, requirements and specifications set out in the Agreement.
- 6.8. **Progress Time Schedule.** In addition, and without derogating from any obligation of the Contractor under the Technical Specifications, the Contractor shall prepare and deliver to ISR, on a monthly basis, by no later than the 10th day of each month (and more frequently if so requested by ISR), a time schedule detailing the progress of the Works to be performed by the Contractor in accordance with the Approved Deliverables of the Detailed Design Phase and the Approved Deliverables of the System Development Phase, in a manner that ensures compliance with the Project Timetable.
- 6.9. All documents, plans, designs, drawings, work plans, reports, software specifications and any other materials and/or deliverables submitted by the Contractor to ISR under this Section (collectively, the "**Deliverables**") shall at all times be subject to ISR's review and express written approval.
- 6.10. Until and unless a specific Deliverable has been expressly approved in writing by ISR in accordance with this Agreement, such Deliverable: (i) shall not be binding upon ISR; (ii) may not be relied upon by the Contractor for the purpose of executing the Works, except to the extent expressly authorized in writing by ISR; and (iii) shall be deemed draft only and subject to further modification, amendment or replacement as ISR may reasonably require.
- 6.11. ISR's approval of any Deliverable shall not be construed as a waiver of, or as relieving or releasing the Contractor from, any of its responsibilities, obligations, warranties or liabilities under this Agreement, nor as an approval of the technical, legal or professional sufficiency of such Deliverable. ISR shall be entitled, at any time, to require additional corrections, updates or modifications to any Deliverable if errors, omissions, discrepancies or other defects are discovered, without prejudice to any other right or remedy available to ISR under this Agreement or under any applicable law.
- 6.12. **ISR Delay.** For the avoidance of doubt, any delay on ISR's part in fulfilling its obligations under this Section shall not, in and of itself, constitute a breach of this Agreement. However, if and to the extent that such delay causes a corresponding delay in the Contractor's performance of the Works, the Project Timetable may be extended accordingly.

7. SUPERVISION; ACCESS TO PLACES OF PRODUCTION; INSPECTIONS

- 7.1. **Supervision by ISR.** ISR shall be entitled (but not obligated) to monitor and supervise the performance of the Works with regards to the provision of the System and Warranty, by itself or by any third party in Israel and/or abroad on ISR's behalf, and the Contractor undertakes to cooperate as required with respect thereto including submitting all information required by ISR and/or any third party on its behalf. Such supervision, if applicable, shall not derogate from any provision of this Agreement and/or from the Contractor's liability and responsibility to perform the Works in accordance with the provisions of this Agreement and to supply and install the System and/or fulfill the obligations set out in this Agreement, nor shall it impose any responsibility on ISR which is not otherwise expressly set forth in this Agreement.
- 7.2. **ISR's Access.** Without derogating from the generality of Section ~~7.17.17.1~~, ISR, by means of any person acting for or on its behalf, shall at all times have free access to all places of production, including but without limitation the factories, sites, offices, workshops, and other places where the Works (including any material or component being part of the Works) are being produced, assembled completed or inspected, either in Israel or abroad. Such right to free access shall include, without limitation, the right to inspect the Works (including any material or component being part of the Works) at any stage of design, production and testing. In the event of a request to inspect the Works at times other than normal working hours, the Parties shall mutually agree as to the time(s) at which such inspection shall be carried out and shall be granted free access to any information required by ISR and/or any third party on its behalf. Nothing herein shall be construed as restricting or limiting in any manner ISR's access to the Contractor sites where the Works are being performed, and ISR shall at all times have free and unrestricted access to such sites.
- 7.3. **Assistance by the Contractor.** Without derogating from the above, the Contractor shall afford free of charge any assistance and access reasonably requested by ISR's inspectors and duly authorized representatives in order to enable them to carry out inspection, checking and tests in connection with this Agreement and provide them with any information requested.
- 7.4. **Access to Subcontractors Locations.** Without derogating from the above, if work for or in connection with the Works is being carried out at a Subcontractor's premises, the Contractor shall, by a term in the Subcontractor agreement, secure similar rights of access by ISR or by means of any person acting for or on its behalf as set out in this Section, and shall take all action necessary to make such rights effective.
- 7.5. **Rejection of the Works.** If any of the Works, whether completed or in process, is rejected on inspection, the same shall be marked in a manner satisfactory to the IPM, so as to ensure its subsequent identification as a rejected article. If no other solution is provided by the Contractor that is acceptable by ISR, the Contractor shall within seven (7) days or within such other reasonable time, pull down, take out, separate and sort out any such marked Works so rejected. Works rejected under this Section shall not be considered as having been delivered under this Agreement and the Contractor shall, without delay, replace and deliver unsatisfactory Works at the Contractor's sole cost and expense. No such rejection shall give grounds to any delay or extension in the timetables set forth in the Delivery Schedule.

- 7.6. **Inspection not to Relieve Contractor's Obligations.** Inspection, examination, rejection or approval with no objections by ISR of finished or unfinished Works shall neither relieve nor derogate from the Contractor's obligation to execute and complete the Works in strict accordance with the requirements of this Agreement, or impose any liability or responsibility on ISR.
- 7.7. The Contractor undertakes to comply with and fulfil the obligations specified in the Foreign Contractor's Industrial Cooperation Undertaking with regard to offset procurement which is to be carried out in connection with the execution of this Agreement. Without derogating from the generality of the above, the Contractor warrants that it has fulfilled the aforesaid obligations in accordance with the Mandatory Tenders Regulations (Mandatory Industrial Cooperation) 5767-2007, including submitting a plan for the execution of industrial cooperation in Israel, all in accordance with the Israeli Mandatory Tenders Regulations (Mandatory Industrial Cooperation) 5767 – 2007, and without limitation Section 8 of such regulations with respect to the period for fulfilment of the aforesaid obligations.

8. **SUPPLY OF THE SYSTEM**

8.1. **Purchase Order**

- 8.1.1. Within sixty (60) days following the Effective Date, ISR shall issue a purchase order for the Supply of the System ("**Purchase Order**"). The Purchase Order shall be sent by ISR to the Contractor's contact person by email.
- 8.1.2. Upon issuance of the Purchase Order, the Contractor shall supply the System and provide any associated services, all in accordance with the terms of this Agreement and any additional terms expressly set forth in the Purchase Order. Any standard terms and conditions contained in the Contractor's quotation, order confirmation, invoice or any other Contractor document shall have no effect and shall not be binding on ISR, even if such document is signed or acknowledged by ISR, unless expressly and specifically agreed to in writing by ISR.

8.2. **Purchase Order Communication; Contact Persons; Electronic Communication**

- 8.2.1. Upon receipt of a Purchase Order by email from ISR, the Contractor shall confirm receipt of such Purchase Order to ISR's contact person by return email without undue delay. An original signed copy of such confirmation shall be sent to ISR by air mail or recognized international courier. For the avoidance of doubt, failure by the Contractor to send such confirmation shall not affect the validity or binding effect of any Purchase Order issued by ISR.

8.3. **Supply Time Schedule**

- 8.3.1. The System shall be supplied within twelve (12) months following receipt of the Purchase Order.
- 8.3.2. Any delay in the supply of the System and/or failure to comply with the Time Schedule set forth in this Section shall constitute a

breach by the Contractor and shall entitle ISR to exercise any and all rights and remedies available to it under this Agreement (including, without limitation, any applicable liquidated damages and/or termination rights) and/or under any applicable law, without prejudice to any other right or remedy.

8.4. Acceptance of the System

- 8.4.1. The System shall be deemed supplied and accepted only upon: (i) the successful completion of the acceptance tests, as described in the Acceptance Testing Program (the “**Acceptance Tests**”); ~~(ii) The parties have reached a signed Escrow Agreement with the nominated Escrow Agent in accordance with the provisions of Section 13.8;~~ and (iii) the issuance by ISR of a written acceptance certificate in the form attached hereto as **Annex H**.
- 8.4.2. ISR’s performance of Acceptance Tests and/or issuance of an Acceptance Certificate shall not relieve or release the Contractor from any of its obligations, warranties or liabilities under this Agreement, including, without limitation, its obligations with respect to defects, non-conformities and warranty, nor shall it be construed as a waiver of any right or remedy of ISR.

8.5. Coordination and Operational Impact

The Contractor shall coordinate in advance and on an ongoing basis with ISR the supply and on-site delivery of the System. The Contractor shall use its best efforts to ensure that the supply and installation of the System are conducted in a manner that causes minimal interruption to the ongoing operations of ISR. For the avoidance of doubt, any additional costs incurred due to the Contractor’s failure to properly coordinate such activities shall be borne exclusively by the Contractor.

9. DOCUMENTATION AND TRAINING

- 9.1. Documentation - Prior to the issuance of the Acceptance Certificate, the Contractor shall deliver to ISR all Documentation with respect to the supplied products. ~~ISR shall own~~As between the Parties, all rights, titles and interests relating to or deriving from Intellectual Property Rights in the Documentation shall remain vested in the Documentation Contractor; provided that ISR is hereby granted a perpetual, irrevocable, including the right royalty-free and fully paid-up license to use, reproduce, display to use, reproduce, display and make such copies of the Documentation as are reasonably necessary for ISR’s internal use, distribute operation, disclose support and make copies thereof maintenance of the System, without any limitation whether by ISR or any further charge by third parties acting on ISR’s behalf, in accordance with this Agreement. The Contractor shall update the Documentation from time to time and provide ISR with an updated version of the Documentation promptly following any such update.
- 9.2. Training - The Contractor shall provide Training Services in accordance with the requirements set forth in **Annex K**, which shall include, *inter alia*, the training of ISR's personnel (including managers, operators, engineers and technicians) and the submission of any and all data with respect to the configuration, usage,

maintenance and operation of the System and any part thereof. Without derogating from the generality of the aforementioned, it is being clarified that Training Services shall be provided by the Contractor prior to the installation of the System, so as to allow ISR's personnel to independently operate the System immediately following its supply. The costs of Training Services to be provided by the Contractor, as set forth above, are included in the unit costs quoted in the Consideration Annex. However, in the event that ISR, at its sole discretion shall require additional Training Services beyond the services set forth in the Technical Specifications, the Contractor shall be entitled to receive an additional consideration as agreed upon in good faith between the Parties. Notwithstanding the foregoing, any additional Training Services must be approved in writing by ISR prior to the performance of such services.

10. WARRANTY

- 10.1. The Contractor undertakes and warrants to ISR, that during the period commencing on the issuance date of the Acceptance Certificate, and ending three (3) years thereafter (the "**Warranty Period**"), the Installed System supplied and/or installed under this Agreement, shall (i) be fully operational and perform to the maximum extent of its capabilities and in all respects in strict accordance with this Agreement, including the Technical Specifications, and (ii) be free of any defects in design and/or poor workmanship (the "**Warranty**").
- 10.2. Without derogating from any rights or remedies available to ISR according to this Agreement and/or under applicable law, upon receipt by the Contractor of a written notice from ISR claiming that the Warranty has been breached, in any way whatsoever, the Contractor shall, at its sole cost and expense and within the time reasonably stipulated by ISR for that purpose in recognition of the severity of such breach: (i) promptly investigate and examine the Installed System or any part thereof; (ii) remedy, cure, repair, replace, fix and take any action necessary to remedy any defect, deficiency, damage or loss, due to any failure, fault, shortcoming or non-conformity, such as faulty or negligent design (including errors and omissions in design), workmanship or software, of the Contractor or of any and all of the Subcontractors or any third party acting on the Contractor's behalf; and (iii) act in all other respects in accordance with the terms, conditions and timeframe set forth in **Annex L**.
- 10.3. In addition, should any Works or part thereof be replaced or repaired by virtue of this Section ~~10.10.10~~, than the Warranty Period of the replaced or repaired Works shall be superseded by a new Warranty Period that shall continue until the later between: (i) the end of the original Warranty Period, or (ii) two (2) years of the date on which the defect shall be corrected.
- 10.4. During the Warranty Period, the Contractor shall further supply ISR, with support services and preventive, corrective and emergency maintenance services for the Installed System, which services shall include, *inter alia*, repairs, improvements, correction of bugs, updates and a telephone "hot line" service, all as more fully set forth in the Maintenance Requirements attached hereto as **Annex L** (the "**Support and Maintenance Services**"). Such Support and Maintenance Services shall be deemed an integral part of the Warranty services and shall be provided to ISR for no additional cost during the Warranty Period.

11. MAINTENANCE PERIOD

- 11.1. Following the termination of the Warranty Period, Contractor shall provide Support and Maintenance Services for an additional consecutive period of seven (7) years (the "**Maintenance Period**").
- 11.2. The total consideration for the Support and Maintenance Services to be provided by the Contractor during the Maintenance Period, shall be as set forth in the Consideration Annex.

12. CHANGE ORDER

- 12.1. ISR reserves the right to alter the Technical Specifications ("**Changes**"). Contractor shall be notified of the alterations in writing by the IPM ("**Change Order**") in a Change Order Form attached hereto as **Annex M**. Any Change Order shall specify a date following which the System shall be designed and supplied in accordance with the amended specifications.
- 12.2. Within ten (10) Business Days following the receipt of a Change Order, Contractor shall provide ISR with a written confirmation and if applicable, shall state on the Change Order Form requested changes to the System, the System Price, Delivery Time, and any other terms relevant to the provision thereof.
- 12.3. Following receipt of Contractor's request for changes as detailed above, the Parties shall, in good faith, review the changes and any changes to the System Price and Delivery Time requested by the Contractor.
- 12.4. The Changes will be incorporated in the System, only after and to the extent that the Parties are agreed as to their impact on the System Price and Delivery Time. Such agreement shall be set out in writing in the Change Order Form and shall be signed by both parties. For the avoidance of doubt, ISR maintains sole discretion regarding the Changes themselves.
- 12.5. Should Contractor find at any time during the design of the System that, in its judgment, existing conditions demand or make desirable or beneficial a modification in the requirements covering any particular item, it shall promptly report in writing, any such matter to ISR for its' decision and instruction.

13. ~~OWNERSHIP, LICENSES, AND INTELLECTUAL PROPERTY PROTECTION~~

~~13.1. Precedence~~

~~13.1.1. Notwithstanding anything to the contrary in this Agreement or in any other document, the provisions of this Section 13 shall prevail with respect to any matter relating to ownership, use, licensing, assignment or exploitation of Intellectual Property Rights.~~

~~13.1.2. In case of conflict or inconsistency between this Section 13 and any other provision of this Agreement (including any Annex, Technical Specifications, license terms or Contractor documentation), this Section 13 shall govern.~~

~~13.2. Ownership of ISR IP~~

~~13.2.1.13.1.~~ 13.1. As between the Parties, ~~ISR~~the Contractor shall be, and ~~hereby is~~shall remain, the sole and exclusive owner of all right, title and interest, throughout the world, in and to ~~any and all Intellectual Property Rights included in, deriving from or related to any of the~~the Deliverables (or any part thereof), including, without limitation~~System, all software programs which form part of the~~the Works Deliverables, the ~~the Source Code, all interfaces, algorithms, specifications, designs, architectures, schematics, databases, Documentation and all related materials, and all Intellectual Property Rights included in, deriving from or related thereto~~ (collectively, **"ISR's Contractor IP"**), provided that ISR shall retain ownership of its data, Confidential Information, methodologies and any materials supplied by ~~)ISR~~.

~~13.2.2.~~ Without derogating from the generality of the foregoing, ~~ISR's IP shall include any and all enhancements, improvements, modifications, updates, upgrades, adaptations, translations and derivative works of the Deliverables and/or of the System, whether created by the Contractor, by ISR, by any Subcontractor, or by any third party on behalf of any of them, to the extent permitted by Applicable Law.~~

~~13.2.3.~~ Without derogating from any provisions of this Agreement relating to Intellectual Property Rights (including, without limitation, this Section 13), the Contractor hereby acknowledges and agrees that, as between the Parties, all right, title and interest (including, without limitation, all Intellectual Property Rights) in and to ~~any and all Deliverables and any other documents, materials, data, reports, drawings, designs, diagrams, plans, specifications, software (including source code), databases, test results, manuals and any other work product of any kind whatsoever, created, developed, generated, prepared or otherwise produced by or on behalf of the Contractor (including by any Subcontractor or any of their respective employees or agents) in the course of or in connection with the performance of the Works under this Agreement (collectively, the "Work Product"), shall, immediately upon their creation and in any event upon delivery to ISR, vest in and become the sole and exclusive property of ISR, free and clear of any lien, encumbrance, charge or right of retention.~~

~~13.2.4.~~ The Contractor hereby irrevocably assigns and transfers, and shall cause all relevant Subcontractors and their respective employees and agents to assign and transfer, to ISR all right, title and interest (including all Intellectual Property Rights) in and to the Work Product, and undertakes to execute, and to cause such persons to execute, any and all documents and instruments and to perform any acts reasonably required by ISR in order to give full force and effect to the assignment and transfer contemplated herein.

~~13.2.5.~~ The Contractor shall not use the Work Product for any purpose other than the performance of its obligations under this Agreement, nor shall it disclose, license, transfer, encumber or otherwise make any use of the Work Product, in whole or in part, without ISR's prior written consent, except as expressly permitted under this Agreement.

~~13.3.~~ **Vesting and Assignment**

13.2. The Contractor hereby grants to ISR a perpetual, irrevocable, worldwide, royalty-free and fully paid-up license to use the Contractor IP to the extent required to

enable ISR to use the System, the Deliverables and the Documentation as contemplated herein, and, with respect to Developments (as defined below), the exclusive rights described in Section ~~שגיאה! מקור ההפניה לא נמצא. שגיאה! מקור~~ 13.3, in each case solely for ISR's internal business operations.

- 13.3. Any developments, interfaces and customizations included in the System or in any Deliverables that are not part of the Contractor's existing core products and technologies at the date of this Agreement and that were created by the Contractor hereunder specifically for ISR, paid for by ISR or that are based on or incorporate ISR's specific requirements, methodologies or Confidential Information ("Developments") shall be exclusive for ISR, meaning that the Contractor shall not grant any third party access to or right to use such Developments nor incorporate such Developments into its offerings or core products or technologies except with IR's prior written consent and subject to terms to be negotiated and agreed upon by the parties. Without derogating from the abovementioned, it is hereby clarified that the Contractor remains free to use, enhance and commercialize its core products (existing & future), including any general-purpose developments, improvements and reusable components.
- 13.4. The license granted under this Section 13 shall include the right for ISR, directly and through third parties acting on ISR's behalf, to install, execute, access, display, host, operate, configure, test, maintain, support and use the System, and to reproduce object code, Documentation and related materials solely to the extent reasonably necessary for installation, operation, testing, backup, disaster recovery, business continuity, support and maintenance of the System.
- 13.5. The license granted to ISR under this Agreement shall survive the expiration or termination of this Agreement for any reason, shall not be subject to suspension, termination or additional payment by reason of the expiration or termination of any maintenance, support or other services arrangement, and shall not be conditioned upon the payment of any ongoing or recurring license fees.
- 13.6. ISR may exercise the license rights granted under this Section 13 in production, test, backup, disaster recovery and business continuity environments, and through its employees, contractors, consultants, operators and service providers acting on ISR's behalf, in each case solely for ISR's internal business operations.
- ~~13.3.1. All Intellectual Property Rights in the Deliverables (other than Licensed IP and Off the Shelf Software, as defined herein) shall automatically vest in ISR upon their creation.~~
- ~~13.3.2. To the extent that any such rights do not vest in ISR by operation of law, the Contractor hereby irrevocably assigns and transfers, and shall cause all of its employees, officers, directors, consultants, Subcontractors and any other person acting on its behalf to assign and transfer, to ISR, without any additional consideration, all right, title and interest in and to the Deliverables and any related Intellectual Property Rights, including all rights of action and the right to sue for past, present and future infringements.~~
- ~~13.3.3. The assignment described in this Section 13.3 is worldwide, perpetual, irrevocable, royalty free, fully paid-up, and includes the right to register, maintain, enforce and defend such rights in ISR's name, at ISR's sole discretion.~~

~~13.4. ISR's Freedom of Use (Full and Unrestricted Rights)~~

~~13.4.1. — ISR shall have the unrestricted, irrevocable right, without any limitation of purpose, territory, medium or technology (whether now known or hereafter developed), and without any further consent or payment to the Contractor or to any third party, to do any and all acts in relation to ISR's IP, including, without limitation, the rights:~~

- ~~(a) to use, reproduce, copy, load, execute, display, perform and store;~~
- ~~(b) to modify, adapt, translate, localize, parameterize, configure, refactor, reverse engineer (to the extent legally permissible) and otherwise change;~~
- ~~(c) to create derivative works of any kind;~~
- ~~(d) to combine, link, interface and/or integrate with any other software, systems, equipment or products;~~
- ~~(e) to disclose, distribute, market, sell, lease, lend, license, sub-license, assign, transfer, outsource, host, provide as a service (including "Software as a Service"), or otherwise make available, in whole or in part, to any third party; and~~
- ~~(f) to authorize and permit any third party to exercise any or all of the foregoing rights on ISR's behalf or for ISR's benefit.~~

~~13.4.2. — The Contractor expressly acknowledges and agrees that ISR may exercise any and all of the rights referred to in this Section 13.4 without any additional consideration, royalty, fee or other payment of any kind whatsoever, now or in the future.~~

~~13.5. No Additional Consideration; Waiver of Claims~~

~~13.5.1. 13.7. The Consideration payable under this Agreement constitutes full, final and complete compensation for: (i) the the assignment of rights under Section 13.3; (ii) the grant of any licenses and waivers perpetual license and exclusive-use rights granted to ISR under this Section 13.13.13; and (iii) ISR's full and unrestricted exercise of ISR's IP and the Licensed IP License (as defined below). ISR shall not be required to pay any additional consideration, royalty, license fee, success fee or any other payment of any kind to the Contractor or to any third party in connection therewith.~~

13.8. The Contractor shall not charge ISR, and shall procure that no third party whose rights are required for ISR's authorized use of the System will charge ISR, any ongoing, recurring or additional license fee for ISR's continued use of the System, the Deliverables, the Documentation or the Developments in accordance with this Agreement.

~~13.5.2. — The Contractor hereby irrevocably waives, and shall cause its shareholders, directors, officers, employees, consultants, Subcontractors and any other person acting on its behalf to irrevocably waive, any and all present and future claims, demands and causes of action of any nature whatsoever, whether in contract, tort or otherwise, against ISR and/or any third party authorized by ISR, arising from or in connection with:~~

- ~~(a) the assignment, licensing or other transfer of rights pursuant to this Section 13; and/or~~

- ~~(b) ISR's use, modification, adaptation, integration, sub-licensing, commercialization or any other exploitation of ISR's IP; and/or~~
- ~~(c) any alleged right to further remuneration, royalties, participation in revenues or any other benefit.~~

~~13.5.3. The Contractor represents and warrants that no employee, consultant, Subcontractor or other third party engaged by it will be entitled to claim any additional remuneration or royalty from ISR or from any person acting on ISR's behalf in connection with ISR's IP or ISR's exercise of its rights hereunder.~~

~~13.6. Licensed IP (Non-Assignable IP)~~

~~To the extent that certain Intellectual Property Rights used in connection with the System or the Deliverables constitute pre-existing Contractor IP or third-party IP that cannot legally be assigned to ISR ("Licensed IP"), the following shall apply:~~

~~13.6.1. The Contractor shall minimize the use of Licensed IP in the Deliverables and shall not incorporate any Licensed IP into the Deliverables without ISR's prior written approval, which may be withheld at ISR's sole discretion.~~

~~13.6.2. For all Licensed IP that ISR has approved in writing, the Contractor shall grant, and shall cause the relevant third-party licensors to grant, to ISR a perpetual, irrevocable, non-exclusive, worldwide, transferable, sub-licensable, royalty-free and fully paid-up license to use, reproduce, display, perform, load, execute, modify, adapt, translate, create derivative works of, integrate, combine, distribute (internally and externally) and otherwise exploit such Licensed IP to the extent necessary or desirable for ISR to fully exercise its rights in the Deliverables and the System, and to engage third parties for development, operation, support, maintenance, integration and further enhancement of the System and other ISR systems (the "Licensed IP License").~~

~~13.6.3. All Licensed IP licenses shall be: (i) granted in ISR's name; (ii) valid for the longest term legally available (preferably perpetual); (iii) unrestricted as to number of users, sites, processors or environments; and (iv) not subject to termination due to any act or omission of the Contractor (including insolvency), except for ISR's own material breach of the applicable license terms following written notice and a reasonable cure period.~~

~~13.6.4. If, at any time, any condition, limitation or obligation associated with any Licensed IP conflicts with or limits ISR's rights as set out in this Section 12, the Contractor shall, at its sole cost and within a reasonable time, either: (i) procure the removal or waiver of such limitation; or (ii) replace such Licensed IP with equivalent functionality that complies with this Section 13, without any adverse impact on ISR.~~

~~13.6.5. ISR hereby acknowledges and agrees that any Pre-Existing Contractor IP (including, without limitation, any existing core products or software platforms of the Contractor used as a basis for the System developed and delivered to ISR under this Agreement) shall remain the sole and~~

~~exclusive property of the Contractor. Nothing in this Agreement shall be construed as vesting in, assigning or transferring to ISR any ownership rights in or to any Pre-Existing Contractor IP. ISR's rights with respect to Pre-Existing Contractor IP shall be limited solely to the Licensed IP License granted pursuant to Section 13.6.2.~~

~~13.7. Open Source / Restricted Licenses~~

- ~~13.7.1. The Contractor shall not, without ISR's prior express written consent, incorporate into the Deliverables or the System any software, code or component that is subject to: (i) any "copyleft" or "viral" open source license; or (ii) any license that would: (a) require disclosure, distribution or licensing of the Source Code of any part of ISR's IP; (b) impose any obligation on ISR to license ISR's IP to third parties; or (c) otherwise restrict ISR's proprietary use or exploitation of ISR's IP.~~
- ~~13.7.2. The Contractor shall provide ISR, upon request and at any time, with a complete and accurate list of all open source and third party components used in the Deliverables or the System, including the applicable license terms.~~
- ~~13.7.3. The Contractor shall bear full responsibility and liability for any breach of this Section 13.7 and shall fully indemnify and hold harmless ISR from and against any loss, damage, claim or cost arising therefrom.~~

~~13.8. Escrow of Licensed Source Code~~

- ~~13.8.1. Without derogating from Section 13.6, within one (1) month of issuance of the System Acceptance Certificate, the Contractor shall deposit with the escrow agent specified by ISR (the "**Escrow Agent**") the complete, buildable and up-to-date Source Code of all Licensed IP used in the System (the "**Licensed Source Code**"), together with all tools, libraries, scripts, documentation and information necessary to compile, maintain and further develop such Licensed IP.~~
- ~~13.8.2. The Contractor shall bear all expenses related to the escrow agent and the deposit of the Source Code.~~
- ~~13.8.3. The Contractor shall promptly update the Licensed Source Code held in escrow following any update, upgrade or change, and in any event not less than once per calendar year.~~
- ~~13.8.4. The Escrow Agent shall hold the Licensed Source Code in accordance with the escrow agreement that shall be attached hereto as **Annex N** (the "**Escrow Agreement**") within six (6) months from the POD.~~

~~13.9. Release and Use of Licensed Source Code~~

~~In the event of: (i) termination or expiration of this Agreement for any reason; and/or (ii) termination or non-renewal of the Support and Maintenance Services; and/or (iii) any other release event specified in the Escrow Agreement, ISR shall be entitled to obtain the Licensed Source Code from the Escrow Agent and to~~

~~exercise, with respect thereto, all rights granted under the Licensed IP License and all rights referred to in Section 13.4, without any additional payment to the Contractor or to any third party.~~

~~13.10. Inspection of Licensed Source Code~~

~~Upon ISR's written demand addressed to both the Escrow Agent and the Contractor, ISR shall be entitled to examine the Licensed Source Code deposited in escrow in order to verify its completeness, correctness and usability. Such examination shall take place at the Escrow Agent's offices (or at another location agreed by ISR), in accordance with the terms of the Escrow Agreement. The Contractor may attend such examination but shall have no right to restrict ISR's ability to verify the content.~~

~~13.11. Securing Third-Party Rights; No Conflicting Commitments~~

~~13.11.1.13.9.~~ The Contractor shall obtain, at its sole cost and responsibility, from all relevant third parties (including, without limitation, its employees, consultants, Subcontractors, and any other person or entity engaged by it) any and all Intellectual Property Rights, consents, waivers and assignments necessary to ~~enable the Contractor to comply fully with this Section 13 and to ensure that ISR may exercise all of its rights hereunder without restriction.~~

~~13.11.2. The Contractor represents and warrants that:~~

- ~~(a) it is not, and shall not become, a party to any agreement, arrangement or commitment which conflicts with, restricts or limits its obligations under this Section 13; and~~
- ~~(b) no person or entity (including, without limitation, any employee, consultant, Subcontractor or third-party licensor) shall be entitled to require from ISR or from any person acting on ISR's behalf any payment, royalty or other consideration, or to impose any restriction, in connection with ISR's exercise of its rights in ISR's IP or under the Licensed IP License, beyond the Consideration payable by ISR to the Contractor under this Agreement.~~

~~13.11.3. The Contractor shall fully indemnify, defend and hold harmless ISR and its officers, directors, employees and agents from and against any and all claims, demands, actions, damages, losses, costs and expenses (including reasonable attorneys' fees) arising out of or in connection with any allegation by any third party that it is entitled to any Intellectual Property Right, royalty or other payment in respect of ISR's IP or in respect of ISR's use of any Deliverable, Licensed IP or Off the Shelf Software, except to the extent caused by ISR's material breach of this Agreement.~~

~~13.12. Off the Shelf Software~~

~~With respect to any Off the Shelf Software required for the design, development, operation and/or maintenance of the System, the Contractor shall procure for ISR, at its own expense unless expressly otherwise stated in the Consideration Annex, the most comprehensive license legally obtainable, which shall: (i) be issued in ISR's name; (ii) be valid for the longest term available (preferably perpetual); (iii) permit use by an unlimited number of ISR users and by third parties acting on ISR's behalf for operating, maintaining, supporting, developing~~

and enhancing the System; and (iv) not contain any term that conflicts with or limits ISR's rights under this Section 13.

~~13.13. Moral Rights~~

~~To the extent permitted by Applicable Law, the Contractor, and all persons acting on its behalf (including employees, consultants and Subcontractors), hereby irrevocably waive any and all moral rights (or similar rights) they may have in or to the Deliverables and ISR's IP, including, without limitation, any right to be identified as the author, any right to object to modifications or to derogatory treatment, and any right to prevent or limit commercial exploitation thereof.~~

~~13.14. Assistance in Securing ISR's Rights~~

~~The Contractor shall, at no additional cost to ISR, assist ISR in securing, registering, maintaining, enforcing and defending ISR's Intellectual Property Rights included in, deriving from or related to the Deliverables, including by: (i) promptly disclosing to ISR all pertinent information and data; and (ii) executing, and causing its personnel and Subcontractors to execute, all applications, specifications, oaths, assignments, powers of attorney and other documents, and by performing all further acts reasonably requested by ISR in this regard.~~

~~13.15. Non-Infringement; IP Claims~~

~~13.15.1. The Contractor represents and warrants that the Deliverables, and the System and any Licensed IP and Off the Shelf Software integrated therein, and ISR's use thereof in accordance with this Agreement, shall not infringe or otherwise violate any Intellectual Property Rights of any third party.~~

~~13.15.2. If either Party becomes aware of any claim or allegation that a Deliverable, the System or any part thereof infringes or otherwise violates the Intellectual Property Rights of any third party (an "IP Claim"), such Party shall promptly notify the other Party in writing.~~

~~13.15.3. Without derogating from any other remedy or indemnity under this Agreement or under Applicable Law, if ISR's use of any Deliverable, or the System or any part thereof is enjoined or threatened to be enjoined due to an IP Claim, the Contractor shall, immediately and at its sole cost and expense, and without limiting ISR's other rights and remedies:~~

- ~~(a) procure for ISR the unrestricted right to continue using the affected Deliverable/System in accordance with this Agreement; or~~
- ~~(b) replace or modify the affected Deliverable/System so that it becomes non-infringing while providing at least equivalent or better functionality, performance and compatibility, and without adversely affecting ISR's rights under this Agreement.~~

~~13.15.4. If the Contractor fails to achieve either option in Section 13.15.3 within a reasonable period of time (not exceeding thirty (30) days unless ISR expressly agrees in writing to a longer period), ISR shall be entitled, in addition to any other remedy, to: (i) terminate this Agreement, in whole or in part, with immediate effect; (ii) receive a full refund of all Consideration paid in respect of the affected Deliverables/System; and (iii) claim from the Contractor any and all additional damages and losses, including costs of procuring substitute solutions.~~

~~13.16. No License Back to Contractor (Use of ISR IP by Contractor)~~

~~13.16.1. The Contractor shall have no right whatsoever to use ISR's IP, or any part thereof, for any purpose other than strictly for the performance of its obligations under this Agreement for the benefit of ISR.~~

~~13.16.2. Without derogating from the generality of the foregoing, the Contractor shall not be entitled to use ISR's IP to provide services or products to any third party, unless ISR has executed a separate written agreement with the Contractor that specifically grants such right and sets forth the applicable commercial terms. ISR shall have no obligation to enter into any such agreement.~~

~~13.16.3. Any use of ISR's IP by the Contractor in violation of this Section 13.16 shall constitute a material breach of this Agreement and an infringement of ISR's rights, entitling ISR, inter alia, to injunctive relief, termination for cause and full compensation for all damages suffered.~~

14. CONSIDERATION

- 14.1. In consideration for the full and timely completion of all of the Contractor's obligations and undertakings under this Agreement, including but not limited to the successful delivery of the System in accordance with Sections 5-6 and 8-9, the Warranty in accordance with Section 10 and the ownership and license of the System in accordance with Section ~~13.13.13~~, ISR shall pay the Contractor such amounts as set forth in the Consideration Annex (Annex B), in accordance with all terms and conditions set forth therein (the "**Consideration**" / "**System Price**").
- 14.2. Other than the fees detailed in the Consideration Annex, the Contractor shall not be entitled to receive any additional payments in connection with the Works or in consideration of the completion of the Contractor's obligations hereunder. The fees detailed in the Consideration Annex are inclusive of all license fees, royalties, or any other costs or expenses of any kind related to the Works. ISR shall not be charged with any further payments (including any license fees and/or royalties) in connection with the Contractor's execution of any of its obligations and undertakings under this Agreement and/or the use by ISR of any of the Deliverables, or any component of any of the foregoing, neither by the Contractor nor by any other person or entity.
- 14.3. All amounts payable to the Contractor under this Agreement shall be paid in the currency denominated in the Consideration Annex with respect to such fee, on the due date of payment set forth therein. All payments shall be made by wire transfer to the Contractor's account, details of which shall be provided to ISR in writing.

15. TERMS OF PAYMENT

- 15.1. Payments by ISR to the Contractor shall be made in accordance with the Milestones and Payment Table set forth in **Annex B1**.
- 15.2. All payments set forth in the Milestones and Payment Table shall be paid to Contractor within forty-five (45) calendar days following the completion of the relevant requirement (as defined in the Milestones and Payment Table), provided

that Contractor has submitted to ISR at least forty-five (45) calendar days prior to the payment an invoice in the amount of relevant Payment, and if applicable, any Payment Guarantee or Final Acceptance Certificate (as detailed in the Milestones and Payment Table attached as Annex B1).

- 15.3. Payments under this Agreement shall be made to Contractor by means of bank transfer to Contractor's bank account as specified in the form attached hereto as **Annex D**.

16. TAXATION

- 16.1. ISR shall bear any Israeli Value Added Tax (V.A.T.) to be imposed on any amount due to the Contractor hereunder, and such V.A.T. shall be added to the applicable unit price set forth in the Consideration Annex.

17. LIQUIDATED DAMAGES

- 17.1. The Contractor shall assume the risk of all suspensions, delays, or hindrances in connection with the performance of the Works, except for any such suspensions, delays or hindrances that were caused solely by ISR (any suspension, delay or hindrance not caused solely by ISR, shall be referred to as a "**Contractor Delay**" or "**Delay**").
- 17.2. Without derogating from the above, the Contractor shall inform ISR of any expected Contractor Delay immediately when it becomes aware thereof. Any notice of such Delay shall detail the cause for such Delay and shall propose alternative actions for the completion of the Contractor's undertakings and obligations in a timely manner.
- 17.3. In the event of any suspensions, delays or hindrances, other than Contractor Delays, any dates or time periods relevant to the performance of the Works by the Contractor under this Agreement shall be respectively extended as required to account for such delays.
- 17.4. ISR shall be entitled to receive from the Contractor (including by means of deduction from any payments due to the Contractor under this Agreement), agreed liquidated damages in the amounts (or rates, as the case may be) as specified below (the "**Delay Liquidated Damages**"), immediately upon occurrence of any Contractor Delay:

17.4.1. **Contractor Delay in Delivery of the System**

- 17.4.1.1. In the event of a Contractor Delay in the Delivery of the System, the Contractor shall pay ISR Delay Liquidates Damages in the amount of **one thousand (1,000) Euro per each week** of Contractor Delay.
- 17.4.1.2. Notwithstanding the above, the total amount of Delay Liquidated Damages to be paid by the Contractor under this Section ~~17.4.1~~~~17.4.1.1~~~~17.4.1.2~~, shall not exceed ten percent (10%) of the Consideration.

17.4.2. **Breach of the SLA**

In any event that the Contractor shall breach the SLA table set forth in **Annex J** (the "**SLA Table**"), the Contractor shall pay ISR (including by means of deduction from any payments due to the Contractor under this Agreement), agreed liquidated damages as specified in the SLA Table (the "**SLA Liquidated Damages**").

- 17.5. The Delay Liquidated Damages and the SLA Liquidated Damages have been determined after due consideration of the damages which the Parties anticipate that ISR shall suffer under the circumstances of a Contractor Delay or a breach of the SLA Table, as the case may be, and therefore shall not be conditioned upon any evidence of damage or loss by ISR. However, ISR's entitlement to Delay Liquidated Damages and the SLA Liquidated Damages under this Section shall be in addition and shall not derogate from any other right or remedy (including pecuniary compensation and/or termination of the Agreement) to which ISR is entitled to according to this Agreement (including the right of set-off) or any applicable law.

18. GUARANTEES

- 18.1. To secure the punctual, complete and entire performance of all of Contractor's obligations under this Agreement, including any Works to be performed by any Subcontractor, Contractor will furnish a Performance and Warranty Guarantee and Payment Guarantees (collectively, the "**Guarantees**"), all as specified in this Section below. All Guarantees shall be issued by a first class bank in Israel approved in advance by ISR.
- 18.2. **Performance and Warranty Guarantee.** Upon the Effective Date, the Contractor shall furnish ISR with an irrevocable autonomous bank guarantee, approved in advance by ISR and issued in the form attached hereto as **Annex F1** in the amount equal to ten percent (10%) of the System Price, valid until two (2) months following the end of the Warranty Period (the "**Performance and Warranty Guarantee**").
- 18.3. **Payment Guarantees.** Before payment by ISR of the 1st and 2nd Payments specified (as specified in the Milestones and Payment Table, attached as Annex B1), and as a condition thereto, the Contractor shall furnish ISR with a bank guarantee in the full amount of the payment above, in the form attached hereto as **Annex F2** (the "**Payment Guarantee**"). The Payment Guarantee (to the extent not collected) will be in force until, and will be returned to the Contractor within thirty (30) days following the issuance of the Final Acceptance Certificate.
- 18.4. The Contractor shall produce and furnish ISR with all Guarantees under this Agreement at the relevant time for furnishing such Guarantees as stipulated in this Section.
- 18.5. Each Guarantee shall be in the relevant form for such Guarantee attached hereto as **Annex F1-F2** and shall be denominated in Euros only. All such Guarantees shall be unconditional and irrevocable bank guarantees, issued by a first-class bank in Israel acceptable to ISR at its sole and absolute discretion (which acceptance must be recorded in advance and in writing), to be paid upon first written demand without the need to prove or substantiate the demand.

- 18.6. Except as otherwise specified in this Agreement, the timely submission of any and all Guarantees to be furnished by the Contractor to ISR under this Agreement is considered pre-requisites for ISR's execution of any payment due to the Contractor under this Agreement.
- 18.7. The Contractor shall maintain the Guarantees valid through their respective times as stipulated in this Section. If ~~sixty-thirty~~ (60/30) days prior to the expiration of any Guarantee Contractor has not completed all of the respective obligations to be performed during the time period secured by such Guarantee, or if such period has been extended, the Contractor shall provide, at its own expense, a substitute Guarantee meeting the requirements of this Section, or extend the term of the relevant Guarantee and notify ISR of such extension, failing which ISR shall be entitled, without derogating from any other remedy that may be available to it under the circumstances, to collect from any of the Guarantees the amount of that Guarantee.
- 18.8. Collection on a Guarantee or any part thereof by ISR shall not derogate from the right of ISR to terminate this Agreement, nor from its right to any remedy that may be available to it under any applicable law and/or agreement or relieve Contractor of any of its liabilities and undertakings under this Agreement, including its liability to indemnify ISR.

19. PROJECT MANAGEMENT

19.1. Appointment of Project Managers

Each of the Parties shall appoint in writing a Project Manager (the Contractor Project Manager shall be referred to as the "CPM" and ISR's Project Manager shall be referred to as the "IPM"), the responsibilities and authorities of whom are specified in the Technical Specifications.

The individual initially appointed as the CPM is [_____], whose contact information is as follows:

Phone number _____; Cell phone number _____; Facsimile number _____; E mail address _____.

The individual initially appointed as the IPM is [_____], whose contact information is as follows:

Phone number _____; Cell phone number _____; Facsimile number _____; E mail address _____.

Any appointment, removal, replacement and dismissal of the CPM shall be approved in writing by ISR in advance. Nevertheless, the Contractor undertakes not to initiate the replacement of the CPM for a period of at least one (1) year, commencing on the Effective Date.

ISR shall be entitled to replace the IPM at any time and at its sole discretion, provided that the Contractor will receive a written notice of such replacement.

19.2. Project Managers Responsibilities

19.2.1. IPM

The IPM shall serve as the primary contact person for the Contractor with respect to the Works and shall be responsible for the on-going

management of the Works. The IPM shall notify the CPM of any representative appointed on its behalf for the purpose of performing any of the IPM's responsibilities hereunder.

19.2.2. CPM

19.2.2.1. The CPM shall be committed full time to the successful and timely completion of the Works, unless ISR shall require otherwise.

19.2.2.2. The CPM shall serve as the primary contact person for ISR with respect to the Works and shall have the power and authority necessary to: (a) lead the Contractor Project Management Team, as defined in

19.2.2.3. the Technical Specifications (b) make prompt decisions on behalf of the Contractor with respect to the Works and this Agreement, (c) facilitate periodic review of the performance of the Works, (d) resolve day to day conflicts, and (e) perform any other duty designated thereto under the Technical Specifications.

19.2.3. Project Managers Authorities

Unless instructed otherwise, all notices, directions, instructions, approvals and other communications with respect to the implementation of this Agreement shall be provided by each of the Parties to the other Party solely and exclusively through the Project Managers.

19.2.4. Status Meetings and Reports

Status meetings, status and progress reports, and any other procedures to be conducted by either Party with respect to the management of the Works, shall be performed in accordance with the requirements set forth in the Technical Specifications.

20. CONTRACTOR AND SUBCONTRACTOR PERSONNEL

20.1. Contractor Personnel

The Contractor shall employ and engage such trained, experienced and skilled employees and consultants as shall be necessary or appropriate to enable the Contractor to oversee, arrange, supervise, coordinate and provide all required services with respect to the Works and pursuant to this Agreement (the “Contractor Personnel”).

20.2. Personnel Lists and Identification

The Contractor shall submit to ISR, prior to any involvement of such personnel in the Works and thereafter upon any change, a list of all key Contractor Personnel and all employees and consultants of any Subcontractor who shall be involved in the Works or present at ISR's sites (the “Subcontractor Personnel”, and together with the Contractor Personnel, the “Personnel”). Such list shall include full names, ID/passport numbers and any other details reasonably requested by ISR.

20.3. No Employment Relationship with ISR; Indemnity

Under no circumstances whatsoever shall any of the Personnel be deemed to be employees, agents or representatives of ISR. All matters pertaining to the employment, training, conduct, supervision, compensation, promotion and discharge of the Personnel shall be the sole and exclusive responsibility of the Contractor and/or the relevant Subcontractor. The Contractor shall comply, and shall cause the Subcontractors to comply, with all Applicable Laws relating to social security, worker's compensation, unemployment insurance, hours of labor, wages, working conditions, safety and similar matters with respect to the Personnel.

The Contractor shall indemnify, defend and hold harmless ISR and ISR Group from and against any and all claims, demands, actions, damages, losses, costs and expenses (including reasonable legal fees) asserted by or on behalf of any of the Personnel against ISR and/or ISR Group. This indemnity shall survive the expiration or termination of this Agreement for any reason.

20.4. Replacement of Personnel

ISR shall be entitled, at any time and in its sole discretion, to request the replacement of any member of the Personnel (including, without limitation, due to lack of competence, improper conduct, breach of safety or security rules, or unsatisfactory performance). In such event, the Contractor shall immediately remove such person from any involvement in the Works and shall appoint, or shall cause the relevant Subcontractor to appoint, as the case may be, a suitably skilled and qualified replacement within such period as ISR may reasonably specify (and in any event no later than thirty (30) days). The Contractor shall have no claim for any additional payment or extension of time arising out of or in connection with any such replacement.

20.5. Compliance with ISR Rules

The Contractor shall ensure that all Personnel strictly comply with all safety, security and site regulations, procedures and instructions of ISR, as may be updated from time to time, and with all Applicable Laws. Any breach thereof by any member of the Personnel shall be deemed a breach by the Contractor.

21. SUBCONTRACTORS

- 21.1. Contractor may nominate the Subcontractors detailed in this Section and shall inform ISR on the identity of such Subcontractors in writing and in advance.
- 21.2. Contractor hereby warrant that all Subcontractors meet and continue to meet all conditions detailed in the Technical Specifications.
- 21.3. Contractor hereby warrant that it shall monitor and supervise the Subcontractors and shall be fully responsible towards ISR and/or any third part to any act and/or omission of such Subcontractors and/or any third party on their behalf.
- 21.4. Without derogating from the above, the approval, non-rejection, recommendation, instructions, directives or determinations made by ISR with regard to the employment of, and/or to the placement any Subcontractors, shall not relieve Contractor of its responsibility to ISR in connection with the execution of the Works, the supply of the System and the fulfillment of the obligations under this

Agreement or from any liability assumed by or imposed upon the Contractor under this Agreement and under applicable law, nor shall it impose any liability or responsibility upon ISR in connection with the Subcontractor, including but without limitation for any acts and omissions done and/or works executed by Subcontractors, and the Contractor shall be fully responsible towards ISR for the acts and omissions of the Subcontractors.

22. TERMINATION OF AGREEMENT

22.1. **Termination by ISR for Cause.** In any of the following events ISR shall be entitled to terminate this Agreement (in whole or in part) immediately upon dispatch of a Termination Notice, and without derogating from any of the other remedies to which ISR is entitled under this Agreement or any applicable law:

- 22.1.1. Any breach of any of the provisions of this Agreement which has not been cured to ISR's full satisfaction, within thirty (30) days of receiving a written notice with respect thereto from ISR;
- 22.1.2. In the event of a court order appointing, with or without the consent of the Contractor, a custodian, receiver, trustee, or other officer with similar powers with respect to its or to a substantial part of the Contractor's assets, or constituting an order for relief or approving a petition in bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding up, or liquidation of the Contractor, or if any such petition shall have been filed against the Contractor and shall not have been dismissed within thirty (30) days thereafter, or an order shall have been issued granting the Contractor a suspension of payments under applicable law and any such order is not dismissed within thirty (30) days thereafter;
- 22.1.3. Any lien and/or attachment and/or encumbrance (whether temporary or fixed) has been placed on a substantial part of the Contractor's assets which has not been removed within thirty (30) days;
- 22.1.4. Any event which, in ISR's reasonable opinion, has a material adverse effect on the Contractor's business or financial condition and on the ability of the Contractor to perform its obligations under this Agreement;
- 22.1.5. The Contractor shall cease to carry out its business or a substantial part of its business.
- 22.1.6. In the event that the Contractor shall not maintain validity of all of the Guarantees in accordance with Section ~~18.18.18~~, including by extending validity and/or renewing any and all of the Guarantees in accordance with Section ~~18.718.718.7~~.

22.2. **Effect of Termination.** Following the receipt by the Contractor of a Termination Notice and except as otherwise directed by ISR, the Contractor shall:

- 22.2.1. Cease the Works on the date and to the extent specified in the Termination Notice, and minimize expenses with respect to the Works, to the extent directed thereby.

- 22.2.2. Transfer full title and all Intellectual Property Rights in all Deliverables to ISR, to the extent that full title and all Intellectual Property Rights have not already been transferred.
- 22.2.3. Deliver in the manner, at the times, and to the extent directed thereby, the Deliverables, the Works in process, supplies, and other materials produced as a part of, or acquired in respect with the performance of the Works up until the Termination Date.
- 22.2.4. Deliver to ISR all materials relating to the System or this Agreement, or obtained or developed in the course of performance of this Agreement, or containing or derived from Confidential Information. A certificate evidencing compliance with this provision shall, if requested by ISR, accompany such materials.

23. RISKS AND LIABILITIES

23.1. General. Contractor shall be solely responsible for, and shall defend, indemnify, and hold ISR, including its shareholders, officers, directors, employees and consultants harmless from and against any and all claims, liabilities, demands, suits, proceedings (whether civil or criminal, other than criminal acts of ISR), orders, judgments, penalties, settlements, fines and all associated costs, losses and expenses (including reasonable attorneys' and other professionals' fees) or any other direct damages (collectively, "**Damages**"), which ISR and/or any of the above persons and entities may incur arising out of, incidental to, or connected with the Works or any of the following (all without derogating from any other remedy that ISR and/or any of the above persons and entities may be entitled to under the circumstances, pursuant to this Agreement or under any applicable law):

- 23.1.1. any damage to property, death or injury to persons, arising out of, or in connection with the Works;
- 23.1.2. Contractor's breach of any term or provision of this Agreement or any applicable law;
- 23.1.3. any claims against ISR made by any Subcontractor arising from, or in connection with, the Works to be performed by the Subcontractor, including but without limitation any payments related to the Works or any part thereof to any Subcontractor;
- 23.1.4. any negligent or willful act, error or omission by Contractor, its employees, agents, representatives and Subcontractors, in the performance of this Agreement (including, for the removal of doubt, the execution of the Works);
- 23.1.5. any actual or alleged infringement of Intellectual Property Rights of whatever type arising out of, in connection with, or otherwise resulting from the use of the Works by Contractor, its Subcontractors or ISR.

23.2. Payment of Indemnification Amounts. Any amount for which ISR claims for indemnification hereunder shall be paid to it within the time specified in the notice requiring indemnification.

23.3. **Defense against Proceedings.** If any legal action or any other proceeding (collectively "**Proceedings**") are commenced against ISR, in respect of which Contractor may be liable to indemnify ISR under this Section, then the following provisions shall apply:

23.3.1. Notice of such Proceedings shall be promptly given to Contractor.

23.3.2. Contractor shall, at its sole cost and expense, defend any litigation that may arise from such Proceedings and conduct all negotiations for the settlement of same, provided that any settlement of such Proceedings will be subject to ISR's prior written consent and provided further that Contractor shall not, in connection with such defense and/or settlement (i) injure ISR's reputation; (ii) purport to take any action expressly or implicitly on behalf of ISR; or (iii) purport to make any representation and/or admission regarding and/or concerning ISR or ISR's activities. ISR's written consent shall not be unreasonably withheld.

23.3.3. At the request and expense of Contractor, ISR shall afford reasonable assistance to Contractor in the defense of such Proceedings.

23.3.4. So long that Contractor timely takes over and properly conducts the negotiations or litigation, Contractor shall not be required to reimburse ISR the fees for services of attorneys retained by ISR (if and to the extent so retained). If ISR finds, however, that Contractor is not coordinating its defense with ISR in a proper manner or fails to defend ISR diligently or if ISR determines, at its sole and absolute discretion, that representation should be by ISR, then ISR may retain the services of attorneys on its behalf and at Contractor's expense, which attorneys will represent ISR in the said Proceedings and may settle such Proceedings, provided that Contractor gives its consent to such settlement in advance and in writing (which consent shall not be unreasonably withheld). For the removal of doubt, the settling of such Proceedings by ISR shall not relieve Contractor of the obligation to indemnify ISR as provided in this Agreement (including without limitation, for reasonable legal fees and expenses incurred by ISR in connection with the enforcement of Contractor's indemnification obligations hereunder).

23.3.5. In addition to the above, if ISR is a defendant in any Proceedings, ISR may at its sole discretion participate and retain the services of attorneys on its behalf at its own expense.

23.4. **Exclusions.** Subject to the provisions of Sections ~~23.523-5~~ and ~~23.623-6~~ below, in no event shall either Party be liable towards the other for any and all indirect or consequential Damages, including but not limited to loss of profit, loss of revenue, loss of goodwill, etc. with respect to this Agreement (including the Works to be performed hereunder), whether in an action based on contract, tort (including negligence) or any other cause of action.

23.5. Subject to the provisions of Section ~~23.1~~^{23.4}, Contractor's total monetary liability towards ISR arising out of or in connection with this Agreement (whether from provisions of the Agreement or of any Applicable Law) shall be limited to 100% of the Agreement value. In the event that the Contractor's total liability sum as per the above has been fully recovered (whether in one or several events), ISR, at its discretion, shall have the right (in addition to and without derogating from its rights pursuant to the provisions of this Agreement) to terminate this Agreement subject to a fourteen (14) days advance written notice to Contractor.

23.6. **Exceptions.** The provisions of Sections ~~23.4~~^{23.4} and ~~23.5~~^{23.5} above shall not apply with respect to:

23.6.1. Any Damages to ISR incurred in connection with endemic failures, including but without limitation such damages to ISR as: replacement of components, publication of advertisements and/or manpower specifically assigned to rectification of such faults and damages;

23.6.2. Alleged or actual infringement of Intellectual Property Rights by the Works or any part thereof;

23.6.3. Death or injury;

23.6.4. Claim for payment by any Subcontractor.

23.7. **Withholding of Payments.** Without derogating from any other rights of ISR under any applicable law and/or agreement, in the event that any claim is made against ISR, or any lien or attachment is affixed against any of its properties, which claim, lien or attachment relates to or is based on circumstances and/or events which fall within the responsibilities and/or indemnification obligations of Contractor as per Section ~~23.1~~^{23.4} above, then unless Contractor provides adequate security, to ISR's satisfaction, that the claim will be covered, ISR may withhold all payments then due or thereafter becoming due to Contractor, until such claim is satisfied and such liens or attachments released.

~~23. LIABILITY AND INDEMNIFICATION~~

~~23.1. Liability:~~

~~23.1.1. The Contractor shall be exclusively liable for any loss, damage, expense, liability and/or cost of any kind whatsoever, caused to ISR Group, arising from any act or omission (including negligence) of the Contractor or any of its Subcontractors, consultants, service providers, employees, agents and/or any other party acting on its behalf.~~

~~23.2. **Obligation to Indemnify.** Without derogating from Section 23.1, the Contractor shall indemnify and hold ISR and any of its shareholders, directors, agents, employees, transferees or assignees (the "**Indemnitee**") harmless from and against all costs, claims, damages, expenses, liabilities and/or losses (including reasonable~~

legal fees) (the “**Claim**”) arising, out of or in connection with: (i) any liability of the Contractor according to Section 23.1, and (ii) any breach of the representations, warranties, undertakings and obligations made by the Contractor in the Contractor's Proposal and this Agreement, regardless of whether the Indemnatee was informed or should have otherwise known so, and (iii) any claim, pending or threatened, that the possession or use by ISR of the Deliverables (or any part thereof), or of any sub-component of any of the foregoing, infringes upon any third party's Intellectual Property Rights.

~~23.3. Indemnification Process.~~

~~23.3.1. An Indemnatee seeking indemnification under this Section shall submit to the Contractor a notice (a “**Notice of Claim**”) on any matter which it has reason to believe that has given rise to or could give rise to a right of indemnification under this Agreement. The Notice of Claim shall state the amount of the Claim, if known, and the method of computation thereof, and shall be submitted as promptly as practicable after becoming aware of such matter; provided however, that the failure to so provide such Notice of Claim shall not relieve the Contractor from any liability which it may have under this Agreement or otherwise.~~

~~23.3.2. Upon delivery of a Notice of Claim, the Indemnatee shall also deliver copies of all the relevant documentation with respect to the Claim, including, without limitation, any summons, complaint or other pleading that may have been served, any written demand or any other document or instrument.~~

~~23.3.3. The Contractor shall have the right to defend the Claim on its own, with counsel reasonably satisfactory to the Indemnatee, subject to (i) the right of the Indemnatee to participate in the defense of such Claim as further described below, and subject to (ii) the Contractor's written acknowledgement that it is obligated to provide indemnification to the Indemnatee with respect to the Claim.~~

~~23.3.4. Any settlement arrangement shall require the Indemnatee's prior written consent.~~

~~23.4. Appointment of Counsel. An Indemnatee shall have the right to employ its own counsel in connection with any such Claim and to participate in the defense thereof, and the fees and expenses of such counsel shall be at the expense of the Indemnatee unless: (i) the Contractor shall have authorized the employment of counsel by the Indemnatee; (ii) the Contractor shall have not assumed the defense of the Claim within a reasonable time; or (iii) the named parties to any such action include both the Indemnatee and the Contractor, and joint representation is inappropriate under applicable standards of professional conduct due to a conflict of interest between the Indemnatee and the Contractor, in either events reasonable fees and expenses of such counsel shall be borne by the Contractor. In such cases, the counsel appointed by the Indemnatee shall be fully updated on the defense procedure, and the Contractor and the counsel conducting the legal defense on its behalf shall consult the Indemnatee's counsel, including with respect to measures to be taken in the course of the defense.~~

24. INSURANCE

24.1. Without derogating from the liability of the Contractor under the Applicable Law or under the Agreement, the Contractor undertakes to procure and maintain with a reputable insurer at its sole cost and expense, throughout the Agreement Period, and with respect to Product Liability insurance and Professional Liability insurance, for an additional period of at least 36 months after the termination of its activities under the Agreement, the following insurance policies (hereinafter: “**the Contractor’s Insurances**”):

24.1.1. **Public (Third Party) Liability Insurance** covering the Contractor’s liability under the Applicable Law towards any third party due to any loss or damage arising from the Services, including death, bodily injury, illness, disease, mental injury, loss or damage to property and any ensuing consequential losses, for a limit of liability of € 1,000,000 per event and in the aggregate.

24.1.2. **Products Liability Insurance** covering the Contractor's liability under the Applicable Law in respect of claim or demand first made during the period of insurance deriving from any bodily injury and/or property damage caused due to the Services, for a limit of liability of € 5,000,000 per event and in the aggregate.

The Policy shall apply retroactively no later than from the commencement date of the Services, even if began prior to the signing of the Agreement between the parties.

24.1.3. **Professional Liability Insurance Policy** covering the Contractor's liability under the Applicable Law in respect of claim or demand first made during the period of insurance deriving from any negligent act, error or omission of the Contractor and/or anyone acting on its behalf in the performance of the Services, for a limit of liability of € 5,000,000 per event and in the aggregate. The policy shall cover the Contractor's liability in connection with any unauthorized system access, electronic attack, denial of service attack and hacking attack.

The Policy shall apply retroactively no later than from the commencement date of the Services, even if began prior to the signing of the Agreement between the parties.

24.1.4. The insurances are subject to a waiver of subrogation against ISR and/or the State of Israel and/or any party acting on its behalf, provided that the waiver of subrogation as aforementioned shall not apply to the benefit of any natural person who causes malicious damage.

24.1.5. A provision whereby the Contractor’s Insurances are primary to any insurance carried out by ISR and/or the State of Israel, and that the insurer waives any claim and/or demand and/or suit regarding participation in the insurance of the aforementioned

- 24.2. If the Contractor is of the opinion that additional and/or supplementary insurance policies are required, the Contractor undertakes to make and maintain such supplementary and/or additional insurance. Any such additional or supplemental insurance, shall include a clause relating to a waiver of the right of subrogation towards ISR and/or the State of Israel, but such waiver shall not apply to the person who caused a damage maliciously
- 24.3. The issuance or maintaining of the Contractor's Insurances shall not be deemed or construed to release, limit, waive or discharge Contractor from any and all of the obligations and risks imposed by the Contractor upon the Agreement, including any liability in excess of the insurance coverages required herein.
- 24.4. The Contractor represents that the aggregate limits as set out in section 1 above have not, as of the date of this Agreement, been depleted or reduced from occurrences or claims unrelated to this Agreement.
- 24.5. The Contractor shall refrain from cancelling the Contractor's Insurances and/or from reducing their scope. The Contractor further undertakes to notify ISR of any situation of cancellation and/or reducing the scope of any of the Contractor's Insurances, sixty (60) days before the date of occurrence of such situation.
- 24.6. For the avoidance of doubt, it is hereby clarified that the limits of liability required by section [24.124.124.1](#) above, are the minimum requirements imposed upon the Contractor. The Contractor hereby declares that it will be barred from rising any claim or demand towards ISR and anyone acting on its behalf, in connection with the limits of liability stated above.
- 24.7. The Contractor shall strictly comply with all conditions of the Contractor's Insurances and their instructions, including explicitly all instructions and requirements of insurers in relation to loss prevention and risk management. Furthermore, the Contractor shall notify ISR as soon as practicable after it becomes aware of the occurrence of any event which may be covered under the Contractor's Insurances.
- 24.8. The Contractor shall not at any time do (or omit to do) or permit any other person to do (or omit to do) anything (including failure to disclose any fact) whereby any insurance required to be maintained under the Agreement could be rendered void, voidable, unenforceable, suspended, impaired or defeated in whole or in part. The Contractor undertakes to indemnify ISR against all losses, costs, expenses, claims, demands, liabilities or proceedings which may be made or brought against or incurred by ISR and the Other Insured Parties as a result of any such act or omission of the Contractor and/or those acting on its behalf.
- 24.9. The Contractor solely shall bear the premiums and the deductible and/or self-insured retention associated with the Contractor's Insurances.
- 24.10. The Contractor shall require its subcontractor(s) and/or Contractor(s) to carry insurance sufficient to protect ISR from loss or damage resulting from their operations, will shall include a waiver of subrogation against ISR, the Other Insured Parties and anyone acting on the aforementioned behalf; however, the said waiver shall not inure to the benefit of any person having acted with malicious intent. Each Party shall require its subcontractor(s) to carry adequate insurance policies corresponding to the nature and scope of the works or services performed by them in relation to the Project.

- 24.11. The Contractor exempts ISR and/or the State of Israel and/or anyone acting on their behalf, from liability for loss or damage to any property under the possession or care of the Contractor or those acting on its behalf used in connection with the Services, from whatever reason; provided however that the aforementioned shall not inure to the benefit of any person having willfully caused such loss or damage.

25. **CONFIDENTIALITY**

- 25.1. In the performance of this Agreement, each party (the “**Disclosing Party**”) may grant the other party (the “**Receiving Party**”) access to Confidential Information owned by the Disclosing Party or its affiliates, or its subsidiaries.
- 25.2. Any and all Confidential Information of any form obtained by a party in the performance of this Agreement shall be deemed to be confidential and proprietary information of the Disclosing Party. The Receiving Party agrees to hold such Confidential Information in strict confidence and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose such information to third parties, or to use such Confidential Information for any purposes whatsoever, other than as required for the performance of this Agreement, and to advise and cause each of its personnel and agents, including Subcontractors, of their obligations to keep such information confidential. Subject to the provisions of Section ~~131313~~, the Contractor also agrees that the Deliverables provided under this Agreement, in whatever form, shall be owned by and constitute valuable Confidential Information of ISR for which ISR has paid substantial funds in order to obtain or maintain a competitive market position.
- 25.3. Confidential Information shall not include information which (i) is or subsequently becomes publicly available without the Receiving Party’s breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to the Disclosing Party’s disclosure of such information to the Receiving Party, or (iii) became known to the Receiving Party from a source other than the Disclosing Party other than by the breach of an obligation of confidentiality owed to the Disclosing Party. The burden of proof in respect of any of the aforesaid exceptions shall be upon the party seeking to rely on such exception.

26. **NON-EXCLUSIVITY**

- 26.1. The Contractor hereby acknowledges and agrees that it is granted no exclusivity with respect to the performance of the Works, any part thereof or any related works. Accordingly, ISR shall be entitled to retain other contractors for the performance of the Works, any part thereof or any related works, all as ISR shall determine at its sole and absolute discretion.
- 26.2. In addition, the Contractor may be required to cooperate with other contractors retained by ISR according to Section ~~26.126.126.1~~.
- 26.3. For the removal of doubt, the Contractor shall not be entitled to any compensation in relation with the Works and/or related works performed by third parties.

27. **INDEPENDENT CONTRACTOR**

The Contractor is acting in the performance of this Agreement as an independent contractor. The Contractor shall not be deemed an agent of ISR and shall not act on ISR's behalf and shall not make ISR liable for its acts or omissions. In addition, this Agreement shall not be construed as creating any legal relationship whatsoever between ISR and the Contractor Personnel or any third parties, including Subcontractors and Subcontractor Personnel, whose services are retained by the Contractor or anyone on behalf of the Contractor.

28. **TRANSFER OF RIGHTS**

- 28.1. Neither this Agreement nor any right, remedy, obligation, liability or responsibility arising hereunder or by reason hereof, nor any of the documents executed in connection herewith, may be assigned, transferred, pledged or otherwise be disposed of (collectively, "**Transfer**") by the Contractor, without ISR's prior written approval, and any attempted Transfer shall be null and void and of no force and effect. In the event that ISR has rendered an approval to a Transfer, such Transfer shall in no way whatsoever relieve the Contractor from its undertakings and obligations under this Agreement and the Contractor shall be fully responsible towards ISR and/or any other third party for the successful completion of the Works.
- 28.2. ISR shall be entitled, at any time, to Transfer any of its rights and any of its obligations under this Agreement, as it shall deem fit, to any other person or entity, without having to obtain the Contractor's approval, provided however, that the Contractor's rights hereunder shall not be prejudiced by such Transfer.

29. **ISR SET-OFF RIGHT**

Without derogating from any right of set-off conferred upon ISR elsewhere in this Agreement, ISR shall have the right to set-off against any amounts that may be owed to the Contractor pursuant to this Agreement, any amount, debt or payment owed by the Contractor to ISR pursuant to this Agreement (including but without limitation, in the form of indemnification or compensation for damages, liquidated or not).

30. **FORCE MAJEURE**

- 30.1. An event of force majeure shall mean any unavoidable event beyond the reasonable control, contemplation or expectation of the party invoking the existence of such event, including, but not limited to, epidemic, earthquake, seaquake, shipwreck or war (the "**Force Majeure**"), provided however, that the absence of shipping or other means of transportation, and disturbances in the territories of Gaza, Yehuda and Shomron, including disruptions in the supply of labor therefrom, shall not be deemed an event of Force Majeure.
- 30.2. Subject to the parties' using all reasonable efforts to reduce the effect of such a Force Majeure, neither party shall be responsible or liable for any delay or failure to perform its obligations under this Agreement, if the delay or failure is attributable to an event of Force Majeure, provided however, that if an event of Force Majeure continues over ninety (90) days, ISR shall have the right to terminate this Agreement by delivering a written notice to the Contractor.

- 30.3. Neither party shall be entitled to avail itself of the provisions of this Section ~~303030~~, unless it so notifies the other within fourteen (14) days from the first occurrence of an event of Force Majeure.
- 30.4. Should an event of Force Majeure during the Warranty Period prevent the performance of the Works or any part thereof, the applicable Warranty Period shall be extended continuously for the period of time during which the Force Majeure prevented its operation.

31. **GOVERNING LAW; JURISDICTION; DISPUTES RESOLUTION**

- 31.1. Governing Law. This Agreement shall be governed by and construed according to the laws of the State of Israel without regard to conflicts of laws provisions. Any dispute arising under or in relation to this Agreement shall be resolved, subject to Section ~~31.231.231-2~~, only by the competent court of the District of Tel Aviv Jaffa, the State of Israel, and each of the parties hereby exclusively and irrevocably submits to the jurisdiction of such court.
- 31.2. Disputes with respect to Change Order Procedure
 - 31.2.1. Project Managers. In any event of disagreement, controversy, contradiction or dispute between the Parties with respect to any Quote as set forth in Section ~~12+2+2~~ (the "**Dispute**"), the Parties shall first attempt to resolve their dispute informally by referring it to the Project Managers (IPM and CPM).
 - 31.2.2. Executive Officers. In the event that the Project Managers are unable to resolve the dispute by mutual agreement, within three (3) Business Days of the date of referral, then the dispute shall be referred to ISR's General Manager and the Contractors' General Manager (the "**Executives**"), who shall meet in person to discuss and attempt to resolve the dispute within five (5) Business Days of the escalation of the dispute by one or both Project Managers.
 - 31.2.3. Notwithstanding the foregoing, nothing herein shall prevent ISR from seeking injunctive relief to protect its interests pending resolution of any dispute hereunder.
- 31.3. Continuity of the Works. In any event of a dispute between the Contractor and ISR, each party shall continue to perform its respective obligations under this Agreement in good faith during the resolution of such dispute unless and until this Agreement is terminated in accordance with the provisions hereof. The Contractor agrees and undertakes that no dispute shall entitle it to delay or withhold the continuity of the Works in a way that shall prevent it from meeting the Project Timetable or any other schedule agreed upon between the Parties.

32. **MISCELLANEOUS**

- 32.1. Entire Agreement. This Agreement, including its exhibits, schedules and annexes constitutes the entire, complete and exclusive statement of the agreement between the parties pertaining to the subject matter hereof, and supersedes and cancels all prior oral and written agreements between the parties with respect to the subject matter hereof.

- 32.2. Amendments. No modification, amendment, supplement to or waiver of this Agreement, or any part thereof, shall be binding upon the parties hereto unless made in writing and duly signed by both Parties.
- 32.3. Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remainder of the provisions shall remain in full force and effect. The invalid or unenforceable provision shall be modified so as to render it enforceable while giving effect, as nearly as possible to the original intent of the parties.

Assignment. This Agreement, including the rights and obligations herein, may not be transferred by the Contractor to any third Party without receiving ISR's prior written consent, which shall not be unreasonably withheld. ISR may at any time, upon its absolute discretion, assign and/or transfer any and/or all of its rights and/or obligations under this Agreement to the State of Israel and/or any other entity controlled and/or affiliated to the State of Israel ("**State of Israel**") by providing written notice to Contractor ("**Notice of Assignment**"). Upon receipt of Notice of Assignment by the Contractor, the assignment and/or the transfer shall be binding and the Contractor may not object such assignment and/or transfer and shall fulfill any and all obligations resulting from such assignment and/or the transfer as directed by ISR and/or the State of Israel. Without derogating from the above, the State of Israel may reassign and/or retransfer, upon its absolute discretion and at any time, all of its rights and obligations back to ISR by providing written notice to the Contractor and such reassign and/or retransfer shall be binding and the Contractor may not object such reassignment and/or the retransfer and shall fulfill all obligations resulting from such reassignment and/or the retransfer as directed by ISR and/or the State of Israel. The Contractor hereby waives any and all claims and/or demand against ISR and/or State of Israel resulting from the implementation of this Section by ISR and/or the State of Israel.

- 32.4. Notices. Unless specifically set forth otherwise, all notices or communications of any kind made or required to be given pursuant to this Agreement (including for the purpose of service of judicial documents), shall be in writing and delivered to the other party at the address in Israel or to the fax number which are set forth in the preamble, unless either party gives notice to the other party of a change of such contact details. All notices or communications shall be made by hand delivery, established overnight courier service, prepaid certified mail or facsimile. Notices shall be deemed delivered upon receipt if delivered by hand or overnight courier service, one Business Day after transmission if by facsimile, and three Business Days after dispatch if by certified mail.

Notices to be delivered to the IPM or CPM in the manner described above, shall be deemed as delivered to ISR and the Contractor, respectively.

- 32.5. Waiver. A failure of either Party to exercise any right provided for herein, shall not be deemed to be a waiver of any right hereunder.
- 32.6. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written above.

ISRAEL RAILWAYS LTD.

THE CONTRACTOR *

Annex A

Technical Specifications

Annex B

Consideration Annex

Annex B1

Milestones and Payment Table

Annex C

Contractor's Proposal to the Tender

Annex D

Contractor's Bank Account Information

PART A – Contractor's Bank Details

[to be completed by the Contractor's authorized signatories]:

On behalf of the Contractor, _____-[Contractor name], we the undersigned, _____[authorized signatories on behalf of the Contractor] hereby request that all payments to be paid to the Contractor by Israel Railways Ltd. under this Agreement shall be made by means of bank transfer to the Contractor's bank account according to the following details:

Bank Account No.: _____

Swift Code: _____

EBAN Code (applicable to European Accounts): _____

Branch Number: _____

Bank Name: _____

Bank Address: _____

Signature: _____

Name: _____

Title: _____

Date: _____

PART B - Certificate of Authorization

[to be completed by an ADVOCATE / C.P.A]:

I, _____ [Advocate/C.P.A] of _____, hereby certify that _____ and _____ are fully empowered by _____ [Contractor] (the " Contractor ") to sign the Bank Account Form, and hereby certify that their signatures upon the Bank Account Form are fully binding upon the Contractor in accordance with the Contractor's articles of association.

Signature and stamp: _____

Bank Account Form

PART B - Certificate of Authorization

[alternative authorization: to be completed by the CONTRACTOR's BANK]:

We, the undersigned _____ [Bank] hereby declare that as of _____
[date of Contractor's signature on Part A above] the _____ [Contractor] is the
registered owner of the above mentioned account and certify that Part A above has been signed
by the Contractor's authorized signatories. We undertake to promptly inform Israel Railways
Ltd. regarding any change in the ownership of the account or the authorized signatories.

Signature: _____

Name: _____

Title: _____

Stamp: _____

Annex E

Project Timetable

Annex F1

Form of Performance and Warranty Guarantee

To: Israel Railways Ltd. ("**ISR**")
3 Darchei Moshe St., Lod 7136801
Israel

Performance and Warranty Guarantee

Whereas, ISR and _____ ("**Contractor**") entered into Agreement No. _____ on _____ (the "**Agreement**");

Now, we Bank hereby irrevocably guarantee to ISR due, punctual, true, faithful and satisfactory performance by Contractor of all of the obligations on its part contained in said Agreement, including for the removal of doubt Warranty and ancillary services (as set out in the Agreement), and undertake to be responsible and indemnify ISR for payment by Contractor of all sums of money, losses, damages, costs, charges and expenses that may become due or payable to ISR, by or from Contractor by reason or in consequence of the default of Contractor in performance, execution or perseverance of its said obligations, all in accordance with the provisions therein (the "**Guarantee**").

Nevertheless, the total amount to be collected by ISR from us under this Guarantee, shall not exceed the sum of _____ € (in words) _____ EURO.

This Guarantee is unconditional and shall not be revocable by notice or otherwise and our liability hereunder shall not be impaired or discharged by any extensions of time or variation or alterations made, given, conceded or agreed (with or without our knowledge or consent) under the said Agreement.

This Guarantee shall remain in full force and effect until and including the [day] of [month] [year] and after such date it shall expire.

For collecting any amount under this Guarantee, ISR shall not have to refer first to the Contractor, nor shall it have to produce any judgment or any other judicial document, nor shall it have to prove any breach, failure or non-compliance on the part of Contractor or on the part of any person acting for Contractor or on its behalf or in its name, and a written demand or facsimile notice to Guarantor from an authorized representative of ISR shall be sufficient for all purposes of this Guarantee, and specifically shall be sufficient to collect any sum(s) under this Guarantee from the Guarantor immediately upon the demand of ISR

This Guarantee, and our obligations hereunder, shall be governed by and constructed solely in accordance with the substantive laws of the State of Israel (irrespective of its choice of law principles) and the competent courts in Lod, Israel, shall have sole and exclusive jurisdiction over every dispute arising from, or in connection with, this Guarantee.

Date

Annex F2

Form of Payment Guarantee

To: Israel Railways Ltd. ("ISR")
3 Darchei Moshe St., Lod 7136801
Israel

Payment Guarantee

Whereas, ISR and _____ ("Contractor") entered into Agreement No. _____ on _____ (the "Agreement");

Now, we Bank _____ hereby irrevocably guarantee to ISR to be responsible and indemnify ISR for repayment by Contractor to ISR of the sum of _____ € (in words) _____ EURO, all in accordance with the provisions therein (the "Guarantee").

This Guarantee is unconditional and shall not be revocable by notice or otherwise and our liability hereunder shall not be impaired or discharged by any extensions of time or variation or alterations made, given, conceded or agreed (with or without our knowledge or consent) under the said Agreement.

This Guarantee shall remain in force and effect until and including the [day] of [month] [year] and after such date it shall expire.

For collecting any amount under this Guarantee, ISR shall not have to refer first to the Contractor, nor shall it have to produce any judgment or any other judicial document, nor shall it have to prove any breach, failure or non-compliance on the part of the Contractor or on the part of any person acting for the Contractor or on its behalf or in its name, and a written demand or facsimile notice to Guarantor from an authorized representative of ISR shall be sufficient for all purposes of this Guarantee, and specifically shall be sufficient to collect any sum(s) under this Guarantee from the Guarantor immediately upon the demand of ISR

This Guarantee, and our obligations hereunder, shall be governed by and constructed solely in accordance with the substantive laws of the State of Israel (irrespective of its choice of law principles) and the competent courts in Lod, Israel, shall have sole and exclusive jurisdiction over every dispute arising from, or in connection with, this Guarantee.

Date

Annex G

Acceptance Tests Criteria

Annex H

Form of Acceptance Certificate

To:

[Name of Contractor]

[Street]

[City]

[Country of origin]

From:

Israel Railways Ltd.

3 Darchei Moshe St., Lod 7136801

Israel

We hereby certify that the System, as defined in the Agreement No. _____, which was ordered by Israel Railways Ltd. ("**ISR**") according to the Agreement have been accepted and taken over by ISR after the performance of all the tests successfully completed, and trials and training required under the Agreement.

THIS CERTIFICATE IS ISSUED WITHOUT PREJUDICE TO THE RIGHTS
AND POWERS OF ISR UNDER THE AFORESAID CONTRACT.

Signed: _____ Israel Railways Ltd.

Name

Date

Confirmed:

Signed: _____ for *[Name Of The Contractor]*

Name

Date

Annex I

Cyber and Information Security

Annex J

SLA

Annex K

Training Services

Annex L

Warranty and Maintenance Terms

Annex M
Change Order Form

Part 1

FROM: _____ **CHANGE ORDER NUMBER:** _____

ISR Project Manager

DATE OF CHANGE ORDER: _____

TO: _____

Contractor

IN ACCORDANCE WITH OUR AGREEMENT MADE EFFECTIVE AS OF _____, YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ALTERATIONS TO THE TECHNICAL SPECIFICATIONS, DETAILED BELOW. AS OF _____, THE SYSTEM SHALL EFFECTIVELY BE CONSTRUCTED IN ACCORDANCE WITH THE AMENDED TECHNICAL SPECIFICATIONS.

WITHIN TEN (10) BUSINESS DAYS FROM YOUR RECEIPT OF THIS CHANGE ORDER, YOU SHALL PROVIDE US WITH A WRITTEN CONFIRMATION AND, IF APPLICABLE, SHALL STATE REQUESTED CHANGES TO THE SYSTEM AND/OR ANY PART THEREOF, SYSTEM PRICE, DELIVERY TIME, AND ANY OTHER TERMS RELEVANT TO THE PROVISION THEREOF. SUCH REQUESTED CHANGES, IF ANY, SHALL BE TREATED IN ACCORDANCE WITH THE AGREEMENT.

(attach additional documentation if necessary)

Description of Alteration to Technical Specifications: _____

Signature: _____

IPM, on behalf of ISR

Date:

Part 2

Contractor's requests for changes

Signature: _____

CPM, on behalf of the Contractor

Date:

Part 3

Final decision regarding the Changes, and agreements between the Parties regarding impact of the Changes on the System Price and Delivery Time

Signature: _____

IPM, on behalf of ISR

Date:

Signature: _____

CPM, on behalf of the Contractor

Date:

Annex N

Escrow Agreement *(will be attached within six (6) months from the POD)*