

Agreement No. _____ (this "Agreement")

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

between

Israel Railways Ltd.
Company No. 52-004361-3
Of
3 Darchei Moshe St.
Lod 7136801, ISRAEL

("ISR")

Of the First Part

and

("Supplier")

Of the Second Part

Each of ISR and Supplier shall be referred to herein as a "**Party**" and collectively they shall be referred to as the "**Parties**."

WHEREAS, ISR wishes to purchase Forklifts trucks and Reachstackers for ISR's Cargo Division as described in the Technical Specifications attached as **Annex A** (the "**Vehicle/s**"), in accordance with and subject to the terms and provisions of this Agreement; and

WHEREAS, ISR published Tender No. 42230 requesting proposals for the manufacture and supply of the Vehicles (the "**Tender**"); and

WHEREAS, the proposal submitted by Supplier in the Tender was selected as the winning proposal; and

WHEREAS, Supplier declares and certifies that it has the know-how, ability, expertise, facilities, resources, financial resources, licenses, permits and all that is required and necessary in order to design, manufacture, supply and warrant the Vehicles, as well as to fulfill all of the obligations set forth in this Agreement, including the Technical Specifications; and

WHEREAS, the Parties desire to set forth a contractual framework to determine the Parties' relationship and obligations with regards to the design, manufacture, supply, warrant and training of ISR railway staff and warranty of the Vehicles all as detailed below.

NOW, THEREFORE, IT IS DECLARED, COVENANTED AND AGREED BETWEEN THE

PARTIES AS FOLLOWS:

1. PREAMBLE, APPENDICES AND HEADINGS

1.1 The headings in this Agreement are for reference purposes only, are not a material part of and shall not be used in interpreting this Agreement.

1.2 This Agreement shall consist of the following documents each of which is attached hereto and is an integral and inseparable part hereof:

- | | | |
|----------------|----------------|---|
| 1.2.1. | Annex A1 | Technical Specifications |
| 1.2.2. | Annex A2 | Supplier's Proposal in response to the Tender |
| 1.2.3. | Annex B | Consideration Annex |
| 1.2.4. | Annex C | Supplier's Bank Account Form |
| 1.2.5. | Annex D | Acceptance Certificate |
| 1.2.6. | Annex E | Spare Parts List |
| 1.2.7. | Annex F1 | Down Payment Guarantee |
| 1.2.8. | Annex F2 | Performance and Warranty Guarantee |
| <u>1.2.9.</u> | <u>Annex G</u> | <u>Safety and Security Regulations</u> |
| <u>1.2.10.</u> | <u>Annex H</u> | <u>Change Order Form</u> |

1.3 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);
- Supplier's Proposal to the Tender.

1.4 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.

1.5 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:

- 2.1 **"Acceptance"** - shall mean ISR's issuance of a signed Acceptance Certificate in the form attached hereto as **Annex D**, following delivery of the Vehicles to the Site in accordance with the Delivery Terms, the performance of all tasks required to bring the Vehicles 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;
- 2.2 **"Agreement Period"** – as defined in Section ~~33~~;
- 2.3 **"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 Supplier;
- 2.4 **"Business Days"** - any day of the week other than ~~Friday~~, Saturday, and excluding official holidays and bank holidays in Israel;
- 2.5 **"DDP"** – the terms of delivery for the Vehicles shall be Delivered Duty Paid (DDP) at ISR's Site, according to "INCOTERMS 2020" - International Rules for the Interpretation of Trade Terms (ICC Pub. No. 723), subject to the Delivery Terms;
- 2.6 **"Delivery Terms"** – as defined in Section 10.1;
- 2.7 **"Delivery Time"** – as defined in Section 10.2;
- 2.8 **"Intellectual Property Rights"** – as defined in Section 19.2;
- 2.9 **"IPM"** – ISR's project manager for this Agreement, as set forth in Section ~~7.57.5~~ and as may be changed from time to time at ISR's sole discretion by notification in writing to Supplier;
- 2.10 **"POD"** – Purchase Order Date;
- 2.11 **"Site"** - ISR's depot located at Bnei Brak or Zefa or Kiryat Gat or Ramat Hovav or any other ISR facilities in Israel designated by ISR;
- 2.12 **"Supplier's Factory"** – as defined in Section ~~6.36.3~~;
- 2.13 **"SPM"** - Supplier's project manager for this Agreement, as set forth in Section ~~7.57.5~~ and as may be changed from time to time at ISR's sole discretion by notification in writing

to the Supplier;

2.14 "**Subcontractor**" – as defined in Section ~~21~~²⁰;

2.15 "**Technical Specifications**" – the technical specifications attached hereto as Annex A1;

2.16 "**Training**" – as defined in Section ~~5.6~~⁵⁻⁶;

2.17 "**Vehicles**" – _____ (to be completed in accordance with the relevant Type) which complies with the Technical Specifications, attached herein as *Annex A1*;

2.18 "**Vehicles Price**" – as defined in Section 8.1;

2.19 "**Warranty Period**" – as defined in Section ~~12~~¹²;

2.20 "**Works**" – shall mean all works, components, materials and equipment to be executed or supplied by Supplier, directly or indirectly, in connection with the supply, assembling, tests, training and warranty of the Vehicles 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, materials, equipment, tools, spare parts, accessories, components and other elements of every kind and description (including Intellectual Property Rights), all in accordance with the Technical Specifications and this Agreement.

3. **AGREEMENT PERIOD**

This Agreement shall commence on the Effective Date and shall continue in full force and effect for a period of three (3) years or the end of the Warranty Period for the last Vehicle, purchased under this Agreement, whichever is longer (the "**Agreement Period**"). ISR shall have the option, upon its sole discretion to extend the Agreement for additional two (2) years by providing Supplier with 30 days prior written notice before the end of the Agreement Period (the "**Optional Period**"). All terms and conditions of this Agreement shall apply during Optional Period, *mutatis mutandis*.

4. **SUPPLIER'S DECLARATIONS AND REPRESENTATIONS**

Supplier hereby represents and warrants to ISR as follows:

4.1 **Authority Relative to this Agreement.** Supplier has all necessary corporate power and authority to execute and deliver this Agreement, to perform its obligations under this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action of Supplier, and no other corporate proceedings on the part of Supplier are necessary to authorize this Agreement, or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Supplier and constitutes a valid, legal and binding agreement of Supplier, enforceable against Supplier in accordance with its terms.

4.2 **No Conflict.** No actual or potential conflict of interest or unfair competitive advantage

exists with respect to Supplier's acting hereunder, and Supplier shall not engage in any contractual relationship that may cause such conflict of interest or unfair competitive advantage to exist.

- 4.3 **No Litigation or Impediment.** There is no (i) litigation that is currently in effect or threatened, against Supplier, which would challenge the authority of Supplier to enter into this Agreement or to carry out its obligations under this Agreement, or (ii) impediment, whether legal or stemming from a prior or simultaneous commitment made by Supplier, or any other impediment of whatever nature, which might prevent Supplier from entering into this Agreement or hinder the performance of any or all of its obligations hereunder.

4.4 **Supplier Examination and Evaluation.**

Supplier hereby represents and warrants to ISR that:

- 4.4.1. Supplier has examined all documents pertaining to the Tender, this Agreement, in particular the Technical Specifications, as well as all other documents comprising this Agreement, and is satisfied with regard to the data, specifications, terms and conditions under which the Vehicles shall be supplied, assembled, tested, and delivered to ISR, and the execution of the Works required for the provision of the Vehicles as well for the fulfillment of any and all obligations under this Agreement;
- 4.4.2. Supplier has evaluated (independent of, and without relying on, any information or data provided by ISR) any and all other factors that may be deemed to affect the carrying out of its obligations under this Agreement, including but without limitation, technical risks and environmental influences, and any other risk involved therewith, and such other conditions that may be expected to affect the progress or completion of the Works in accordance with this Agreement, and has reasonable grounds to believe and does believe that such performance is feasible and practicable under the terms and conditions stated herein;
- 4.4.3. Supplier has examined and is fully satisfied with all of the information provided to it by ISR, including ISR's rules and procedures;
- 4.4.4. Supplier shall not be entitled to any payment or compensation other than as set forth herein and shall not make any claim for additional payment from ISR on the grounds of any misunderstanding or misapprehension in respect of any matter which a reasonable and expert supplier of such Vehicles knew or should have known or on the grounds of any allegation or fact that incorrect information was given to Supplier by any person (subcontractors included), firm or any legal entity which it knew or should have known to be incorrect as a reasonable and expert supplier of such Vehicles, whether the person, firm or legal entity was employed by ISR or not, or on the grounds of the failure on its part to obtain correct information with regard to the Works.

- 4.5 **Compliance with Applicable Law.** Supplier is aware and has knowledge of all legal requirements prevailing in the State of Israel that must be followed for the execution of the Works. Supplier shall abide by any applicable law, as shall be in effect from time to time, and shall perform and execute the Works in strict compliance therewith (including but without limitation in compliance with regulations and orders relating to the employment of its employees).

4.6 **Mandatory Industrial Cooperation** *(to the extent applicable)*. Supplier undertakes to comply with and fulfill the obligations specified in the Foreign Supplier's Industrial Cooperation Undertaking submitted by Supplier as part of Supplier's Proposal 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, Supplier undertakes to fulfill the aforesaid obligations in accordance with the Mandatory Tenders Regulations (Mandatory Industrial Cooperation) 5767-2007, including but without limitation Section 8 of such regulations with respect to the period of fulfillment of the aforesaid obligations.

4.7 **Discrepancies and Omissions**

4.7.1. Supplier represents that wherever there is a discrepancy between the Technical Specifications, Supplier's proposal to the Tender (**Annex A2**), drawings or other documents constituting a part of this Agreement, its prices reflect the type of materials, construction, works or other relevant element, item or unit best suited (to ISR) and consistent with the Technical Specifications and Supplier's proposal to the Tender (**Annex A2**). No inaccuracies, errors, misstatements, omissions, discrepancies, defective or incomplete descriptions, contradictions or ambiguities in or between any of the provisions of this Agreement, or any information or instructions communicated or given by ISR to Supplier from time to time, shall constitute grounds for stoppage of the Works, for relieving or releasing Supplier of any of its responsibilities, duties, obligations or liabilities pursuant to this Agreement, for cancellation or termination of this Agreement by Supplier or for withdrawal from the Works.

4.7.2. Should any works, matters or things required for the proper execution and completion of the Works be omitted from this Agreement by ISR, the IPM shall – upon notice from Supplier to that effect or on its own initiative – give necessary explanations and instructions and decide what works, matters or things are to be done by Supplier and in what manner and order. Supplier shall thereupon be bound to do such works, matters and things as instructed. In case any such instruction with regard to an omission involves matters of price or terms of payment or timetable, such matters shall be settled by mutual agreement in writing (prices shall be based upon the prices specified in the Consideration Annex or pursuant thereto) – without derogating from Supplier's obligation to execute such Works as instructed by the IPM.

4.7.3. Supplier shall advise ISR in writing, immediately and in any case within no more than five (5) days, upon becoming aware of any suspected or actual contradiction or discrepancies between the provisions of, or any omission in, any of the various documents forming this Agreement.

4.8 **Review and Approval**. The Supplier confirms and agrees that it shall apply to receive ISR's written consent, wherever ISR's consent, explicitly or implied, is required according to this Agreement. This requirement and the provision of ISR consent, shall not derogate in any way from Supplier's responsibilities and liabilities under this Agreement, and ISR shall bear no responsibility or liability whatsoever in connection with the review (whether or not there are objections) and/or with any approval given to, or denied from, Supplier, with respect to any matter and/or document, including but without limitation, drawings, designs (at all phases), plans, tests or otherwise.

- 4.9 **Independent Contractor**. Supplier is an independent contractor acting at its own risk and account and solely responsible for its own financial obligations, and nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or principal and agent relationship between the Parties, nor will it be construed as creating any relationship whatsoever between ISR and any employees, Subcontractors, representatives or agents of Supplier. Supplier will not have the authority nor will it represent that it has the authority to assume or create any obligation, express or implied, on behalf of ISR.

5. GENERAL OBLIGATIONS

- 5.1 **Purchase and Sale**. Supplier hereby agrees to execute any and all Works required for the provision of the Vehicles in accordance with the terms and the conditions of this Agreement, including, *inter alia*, the supply, testing, assembly, commissioning, Training, Warranty as well as the fulfillment of Supplier's obligations in accordance with the Technical Specifications and Supplier's proposal to the Tender and in compliance with the guidelines and procedures set out in this Agreement.
- 5.2 **"Turn Key Basis"**. The Vehicles shall be supplied on a "turn key" basis such that Supplier shall perform at its own expense and risk any and all Works in accordance with the provisions of this Agreement. Without limiting the generality of the foregoing, Supplier shall be solely responsible, at its own expense and risk, to carry out any and all Works, import and supply of any and all components, equipment and materials, perform any and all activities and pay and bear all costs and expenses pertaining to the performance of the Works and supply of the Vehicles; this shall include, without limitation, the supply, training, testing, operating, demonstration and assembly of the Vehicles and any other tasks or duties relating to the above – all as shall be required in order to timely deliver operable, safe, efficient and reliable Vehicles, and putting same into full operation in accordance with all of the requirements of this Agreement, while applying state-of-the-art technology.
- 5.3 **Conformity of the Vehicles**. The provision of the Vehicles and the execution of the Works shall be made in strict conformity with the terms and conditions of this Agreement. Any deviation from the terms and the conditions of this Agreement must be approved in writing in advance by ISR.
- 5.4 **Standards**. The Works and the Vehicles shall meet the standards set forth by ISR in this Agreement, and if no standard is expressly mentioned, Supplier shall comply with the standards which shall ensure the highest quality of workmanship, material and equipment required by the applicable law and/or as instructed by ISR in accordance with ISR's sole discretion. All calculations, designs, integration and drawings related to the Vehicles or any part thereof shall assure the reliability, efficiency, competency as well as the functionality of the Vehicles to ISR's full satisfaction.
- 5.5 **Permits**. Supplier shall, at its sole expense, obtain, maintain, comply with and keep in effect all approvals, permits and licenses required for the execution of this Agreement, the supply of the Vehicles and the provision of all ancillary services, pursuant to this Agreement.

5.6 **Training.**

- 5.6.1. Supplier shall provide ISR with Training in accordance with requirements set forth in Annex A1 ("**Training**"). The Training shall ensure the highest level of operation of the Vehicles and/or any part thereof by ISR.
- 5.6.2. All costs related to the Training are included in the Vehicles Price (including but not limited to travelling, accommodation and lodging expenses), and Supplier shall not be entitled to any additional consideration for the provision of any Training specified herein.
- 5.6.3. Without derogating from any other right conferred to ISR, ISR shall be entitled to copy and/or record (including by video camera or other digital means) the Training sessions and/or any part of the Training program and to use such recordings for ISR's study and operation purposes.

5.7 **Safety.** All Works of Supplier and any Subcontractor shall be performed in strict compliance with ISR's safety regulations and any other applicable law pertaining to safety at work, as may be in force from time to time. Supplier shall immediately report to the IPM the occurrence of any accident in connection with the execution of the Works. Supplier shall also report any such accident to the relevant competent authority whenever such report is required, and in any case, register same in the Works log.

5.8 **Cooperation.** Supplier undertakes to reasonably cooperate with any other supplier and/or contractor and/or consultant engaged by ISR and to furnish ISR with all relevant information reasonably required for the interface between the Vehicles and any other equipment and/or infrastructure of ISR.

5.9 **Personnel.** Supplier shall employ trained skilled employees and consultants as shall be necessary or appropriate to enable Supplier to supply the Vehicles and the Warranty including the execution of the Works.

- 5.9.1. Supplier's personnel, employees and consultants and any Subcontractor's personnel, employees and consultants (the "**Supplier Personnel**" and "**Subcontractor Personnel**", and together, the "**Personnel**") shall not be deemed under any circumstances whatsoever, to be the employees of ISR, and Supplier shall indemnify and defend ISR from and against all claims made by the Personnel against ISR. The foregoing indemnity shall survive the expiration or termination of this Agreement. All matters pertaining to the employment, training, conduct, supervision, compensation, promotion and discharge of the Personnel shall be the sole and exclusive responsibility of Supplier and Supplier shall comply with all applicable laws and regulations relating to worker's compensation, social security, unemployment insurance, hours of labor, wages, working conditions and safety and similar matters with respect to such Personnel. Supplier acknowledges and agrees that Supplier is obligated to report as income all compensation received by Supplier pursuant to this Agreement,

and Supplier agrees to and acknowledges the obligation to pay all self-employment and other taxes thereon. Supplier agrees to indemnify and hold harmless ISR and its directors, officers, and employees from and against all taxes, losses, damages, liabilities, costs and expenses, including attorney's fees and other legal expenses, arising directly or indirectly from (i) any negligent, reckless or intentionally wrongful act of Personnel, (ii) a determination by a court or agency that Supplier and/or any of the Personnel is not an independent contractor, or (iii) any breach by the personnel of any of the covenants contained in this Agreement.

5.9.2. Without derogating from the above, Supplier shall bear any cost and/or expense relating to the Personnel (including but not limited to travelling, accommodation and lodging expenses). Supplier shall be responsible and bear all expenses associated to visas, work permits etc. associated to any service to be provided by Supplier through personnel in Israel.

5.9.3. No later than 60 days before the arrival of Personnel to any of ISR's sites, Supplier shall provide ISR with a list of such Personnel, including ID/Passport numbers and such other details as shall be reasonably requested by ISR, prior to any involvement of such Personnel in ISR's sites.

5.10 **Environmental Standards.** The Vehicles and/or the Works shall meet the applicable environmental standards in accordance with Israeli law and regulations and in the absence of an applicable Israeli law the relevant E.U. standard shall apply. However, in any event of discrepancy between the provisions of Israeli law and any E.U. standard, the provisions of the Israeli law shall prevail.

5.11 **Quality Management System.** Supplier hereby undertakes, warrants and confirms to remain Notified in accordance with latest ISO 9001 standards or equivalent, and Supplier shall at any time during the term of Agreement be willing to prove such claim to be true. In any event, Supplier must notify ISR, in writing, if the said qualification is suspended and/or canceled and/or not continued. For the avoidance of doubt, the aforementioned in this Section shall apply to Supplier and/or any of its Subcontractors.

5.12 **Safety and Security.** Supplier shall comply with the Safety and Security Regulations as detailed in **Annex G** and any amendment to such regulations, as shall be decided by ISR from time to time upon its sole discretion.

6. SUPERVISION; ACCESS TO PLACES OF PRODUCTION; INSPECTIONS

6.1 **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 Vehicles and Warranty, by itself or through any third party in Israel and/or abroad, and Supplier 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 Supplier's liability and responsibility to perform the Works in accordance with the provisions of this Agreement and to supply the Vehicles 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.

- 6.2 **ISR's Access.** Without derogating from the generality of Section 6.1, subject to prior coordination with the Supplier, 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 or completed, 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, assembly, testing and commissioning. 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 Supplier sites where the Works are being performed, and ISR shall at all times have free and unrestricted access to such sites.
- 6.3 **Places of Production and Tests.** Supplier hereby undertakes that the place of production (assembly and integration plant) of the Vehicles shall be _____ [Note: to be approved by ISR] ("Supplier's Factory"). Any change in Supplier's Factory is subject to the prior written approval of ISR at its sole discretion. Supplier alone shall bear and pay any and all costs and expenses incurred by ISR in connection with the review of a new place of production proposed by Supplier and ISR and shall be entitled to approve or to reject any such proposed place of production and tests at its sole discretion. Without derogating from the generality of the above, the standards in any new place of production and tests proposed by Supplier shall not be inferior to the standards in the place of production and tests previously approved by ISR and shall comply with any and all requirements of the Technical Specifications. For the removal of doubt, request by Supplier to change a place of production and tests and review by ISR as per the above shall not give grounds to any delay or extension in the timetables set forth in the Delivery Time.
- 6.4 **Assistance by Supplier.** Without derogating from the above, Supplier 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.
- 6.5 **Access to Subcontractors Locations.** Without derogating from the above, work for or in connection with the Works is being carried out at a Subcontractor's premises, Supplier 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.
- 6.6 **Rejection of the Works, Materials and Components.** If any of the Works, materials or components, 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 Supplier that is acceptable by ISR, Supplier shall within seven (7) days or within such other reasonable time, pull down, take out, separate and sort out any such marked Works, materials or components so rejected. Materials or components of the Works or the entire Works rejected under this Section shall not be considered as having been delivered under this Agreement and Supplier shall, without delay, replace and deliver satisfactory materials, components or Works at Supplier's sole cost and expense. No such rejection shall give grounds to any delay or extension in the Delivery Time.

- 6.7 **Inspection not to Relieve Supplier's Obligations.** Inspection, examination, rejection or approval with no objections by ISR of finished or unfinished Works or of materials or components shall neither relieve nor derogate from Supplier'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. ORDER PROCEDURE

- 7.1 Within ninety (90) days of the Effective Date, ISR intends to issue a Purchase Order of Vehicle/s in the quantities according to its sole discretion, and forward such Purchase Order to Supplier by email to the contact person of Supplier, a copy of which shall be sent via air mail.
- 7.2 During the Agreement Period, ISR in its sole discretion, shall have the option to purchase from the Supplier one (1) or more additional Vehicles (the "**Optional Vehicles**").
- 7.3 The terms and conditions of this Agreement will apply, *mutatis mutandis*, to the Optional Vehicles subject to Section 8.58.5. For the prevention of any doubt, it is hereby expressly emphasized that ISR is under no obligation whatsoever to order certain or any amount of Optional Vehicles from Supplier.
- 7.4 Upon receipt of a Purchase Order by email, Supplier shall confirm via email receipt of the Purchase Order to ISR's contact person. An original document of such confirmation shall be sent to ISR via air mail.
- 7.5 The Parties' contact persons are as follows, or any replacement contact persons as notified in writing by one Party to the other:

For ISR: Mr. _____
Israel Railways Ltd.
Address:
Telephone:
E-mail:
("**IPM**")

For the Supplier: _____

("SPM")

Each Party shall, in writing without undue delay, notify the other Party of changes in contact persons, addresses or facsimile numbers, if any.

- 7.6 Supplier will endeavor to furnish a secured electronic mail service or other equivalent means, in accordance with ISR safety requirements, which will be used by both Parties for the purpose of ordering procedure, requests, queries, reports etc.
- 7.7 Notwithstanding the abovementioned, the execution of this Agreement shall be subject to and following the receipt of the necessary budgetary approvals.

8. CONSIDERATION

- 8.1 The consideration payable for the Works including all ancillary services and materials, equipment, licenses to software, hardware, spare parts and all undertakings of Supplier under this Agreement required for the execution and completion of the Works and for the fulfillment of all of the Supplier's obligations in accordance with the terms and conditions of this Agreement, to be paid by ISR to Supplier, shall be the consideration set forth in **Annex B** (the "**Vehicles Price**").
- 8.2 ISR shall be entitled to deduct from any and all sums payable pursuant to this Agreement the amounts ISR is legally required to withhold at source, unless an appropriate exemption has been provided by Supplier, as applicable, prior to the date of such payment, and any amount so deducted shall be deemed for any and all purpose to have been paid in full by ISR under this Agreement. The Supplier shall be responsible to obtain any appropriate exemption.
- 8.3 The Vehicles Price shall be the final, complete and inclusive price for the manufacture, supply and delivery of the Vehicles and for the performance of the Works and ancillary services related thereto. There will be no adjustment whatsoever for the Vehicles Price specified in the Consideration Annex (**Annex B**), and shall only be linked to the index as detailed in **Annex B**.
- 8.4 Notwithstanding the above, ISR shall be required to pay, if applicable, the VAT (and only the VAT) imposed by the Israeli Tax Authorities on the Vehicles.
- 8.5 In the event that ISR shall exercise its option under Section 7.2 above and without derogating from Section 7.2 above, the Optional Vehicles Price shall be the Vehicles Price as specified in the table in Annex B, except for the linkage mechanism, that shall apply on the Optional Vehicles Price as detailed in Section 9 of Annex B and this Section shall

apply *mutatis mutandis* on the Optional Vehicles Price.

9. TERMS OF PAYMENT

Payment by ISR to Supplier shall be made as follows:

- 9.1 A down payment of thirty percent (30%) of the Vehicles Price ("**Down Payment**") shall be paid to Supplier within forty-five (45) calendar days after the end of the month following the POD, provided that Supplier has provided ISR at least forty-five (45) calendar days prior to the payment with all the following:
 - 9.1.1. an invoice in the amount of the Down Payment; and
 - 9.1.2. a Down Payment Guarantee issued in accordance with the terms and condition set out in Section ~~1616~~¹⁷ below;
- 9.2 A second payment of sixty (60%) percent of the Vehicles Price shall be paid to Supplier within forty-five (45) calendar days after the end of the month following the issuance of the Acceptance Certificate (the "**Second Payment**"), provided however that Supplier has provided ISR at least forty-five (45) calendar days prior to the payment with all the following:
 - 9.2.1. an invoice in the amount of the Second Payment; and
 - 9.2.2. the Performance and Warranty Guarantee issued in accordance with the terms and conditions set out in Section ~~151616~~¹⁵ below, in the amount of 10% of the Vehicles Price.
 - 9.2.3. a Form of Certificate of Completion of the Acceptance Tests, issued and signed by Supplier in the form attached hereto as **Annex D** and countersigned by IPM to be sent to Supplier within 14 days after receipt of said Certificate.
- 9.3 The remaining balance of ten (10%) of the Vehicles Price shall be paid within forty-five (45) calendar days after the successful completion of the Trial Period as defined in Section ~~11.311.3~~ (the "**Balance Payment**"), provided that Supplier has provided ISR at least forty five (45) calendar days prior to the payment with all the following:
 - 9.3.1. an invoice in the amount of the Balance Payment; and
 - 9.3.2. ISR's approval that Trial Period has been successfully completed.
- 9.4 Payments under this Agreement shall be made to Supplier by means of bank transfer to Supplier's bank account as specified in the form attached hereto as **Annex C**.

10. DELIVERY TERMS AND DELIVERY TIME

- 10.1 The terms of supply and delivery of the Vehicles shall be DDP at ISR's Site, and subject to the expressed terms and conditions defined herein in this Agreement (the "**Delivery Terms**").
- 10.2 The time of delivery for of the Vehicles shall not exceed eight (8) months following the issuance of the Purchase Order ("**Delivery Time**").

10.3 It is hereby stated by Supplier and mutually understood by the Parties, that notwithstanding the Delivery Time, Supplier shall make its best efforts, in order to shorten the Delivery Time, as much as possible.

10.4 **Passage of Title**

10.4.1. The ownership and title to the Vehicles and any part thereof shall fully pass to ISR free and clear of all security interests, liens, attachment, encumbrances and any other rights or claims of any kind of any third party, upon the date ~~the Vehicles were delivered to ISR's Site of issuance by ISR of the Acceptance Certificate~~. The passing of title to ISR and vesting of ownership rights shall be without prejudice to any right that may accrue to ISR under this Agreement.

10.4.2. ISR shall bear no responsibility for any Works performed or materials, components or equipment used by Supplier or deposited with any Subcontractor, including such materials, equipment or Works being stored or that have been placed at any site and which are lost, stolen, damaged, destroyed or otherwise fail prior to Acceptance. Supplier shall be solely responsible to protect completely and preserve entirely the Vehicles and any related Works, components, material and equipment until the Acceptance thereof.

11. **TESTING AND ACCEPTANCE TESTS**

11.1 Upon delivery DDP of the Vehicles to the Site, Supplier shall perform all Works required to bring the Vehicles to a full operational condition in accordance with the applicable terms and conditions defined herein in this Agreement and the Technical Specifications.

11.2 Upon the completion of the Works, including the testing, commissioning, Training, and the tests required to ISR's full satisfaction, Supplier shall complete and sign an Acceptance Certificate, in the form Attached hereto as **Annex D** (a "**Acceptance Certificate**"), declaring that Supplier has fulfilled its obligations in accordance with the Agreement and that the Vehicles and/or any part thereof confirms to the standards, requirements and specifications set out in the Agreement.

11.3 Upon the issuance of the Acceptance Certificate, a one (1) month trial period shall commence ("**Trial Period**"). During such Trial Period, the Vehicles shall be inspected in accordance with the technical requirements set forth in the Technical Specifications during ISR's operational work. Upon the successful completion of the abovementioned Trial Period to ISR's full satisfaction, ISR shall confirm in writing that the Trial Period has been completed successfully, and the remaining balance of ten (10%) of the Vehicles Price shall be paid in accordance with the Terms of Payment.

11.4 Supplier shall be responsible for the supply of any equipment, resources, ancillary services and expenses with regards to the testing and acceptance procedures specified in this Agreement shall be included in the Vehicles Price and Supplier shall not be entitled to any additional consideration for the provision of the testing and acceptance procedures specified herein.

12. **WARRANTY**

- 12.1 Supplier confirms and warrants to ISR that commencing on the issuance date of the Acceptance Certificate and for a period of three (3) years thereafter (the "**Warranty Period**"), the Vehicles, and any part thereof (including software and hardware components as well as any materials, system embedded in the Vehicles), shall operate and perform to the maximum extent of its capabilities and in all respects in strict accordance with the terms and the conditions of this Agreement, including the Technical Specifications, and be free of any faults, defects and/or deficiencies, including but not limited to any faults, defects and/or deficiencies in design, material, workmanship, dismantling for sea and land conveyance, assembly, materials, components, software, hardware, etc.).
- 12.2 During the Warranty Period, Supplier will be responsible to perform all Maintenance services as specified in Annex A1.
- 12.3 During the Warranty Period, Supplier shall be responsible to correct at its own cost and expense any defect and/or deficiencies in the corrective and preventive maintenance and calibration.
- 12.4 As an integral part of the Warranty during the Warranty Period, Supplier shall supply and install updates of all Software and of changes (including Minor Releases and New Editions) for applications and system components to what is available in the market. Installing any New Edition or Minor Release shall be subject to prior written approval of the ISR. Supplier shall notify ISR of the existence of any update or new version release, and will detail the implications of the installation and hardware and software requirements associated with it, if at all. For the avoidance of doubt, it is hereby clarified that the aforesaid shall not require ISR to order from the Supplier the updates, New Editions and Minor Releases mentioned above, and ISR shall have the sole discretion whether to install the same. Supplier will provide the full documentation and training required and acceptable for the changes and for the updated editions and versions, so that ISR is in possession of documentation compatible with the latest updates made to the system at any given time.
- "Minor release" – update to the latest release of the Software, released by Supplier and/or third party relating to the Software from time to time, with the repair as the main purpose.
- "New Edition" -A Major Release, a new and updated version of the Software, released by Supplier and/or third party relating to the Software from time to time in order to improve functionality vis a vis the previous edition.
- 12.5 ISR shall promptly inform the Supplier of a Work defect it is aware of after discovery of such defect. Supplier shall not bear responsibility for defects if such defect is a result of gross negligence and/or vandalism on the part of ISR to the Vehicles and/or in case ISR did not act in accordance with the manufacturer's instructions.

12.6 During the Warranty Period, Supplier shall not bear responsibility for defects in consumable components such as filters, oils and fluids, unless manufacturer's warranty for these components is still valid. It is hereby clarified that components such as bearings,

etc, shall not be considered as consumable components.

12.7 In addition, during the Warranty Period, Supplier shall not bear responsibility, in the event a 3rd party has provided services to the Vehicles. However, in any case the Supplier does not arrive and perform the required maintenance and/or repair services within two (2) Business Days from ISR's request, ISR reserves the right to obtain the required services from another service provider. In such case, all warranty obligations of the Supplier shall remain fully applicable and all costs of such services shall be borne by the Supplier.

~~12.6~~12.8 Without derogating from any rights or remedies available to ISR according to this Agreement and/or under applicable law, upon receipt by Supplier of a written notice from ISR claiming that the Warranty has been breached, in any way whatsoever, Supplier shall, at its sole cost and expense and within the time set out in the Technical Specifications and in accordance the severity of such breach, shall: (i) promptly investigate and examine the Vehicles or any part thereof; (ii) remedy, cure, repair, replace (including the supply and installation of the new components), 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, materials or components, assembly or software, of Supplier or of any and all of the Subcontractors or any third party acting on Supplier's behalf.

~~12.7~~12.9 Without derogating from its other obligations in this Section, Supplier further certifies and confirms that during the Warranty it shall provide ISR without any additional charge or cost Services according to the Service Level Agreement ("SLA") in accordance with Annex A1.

~~12.8~~12.10 For the avoidance of doubt, the Warranty requirements specified herein are irrespective of whether the defect, deficiency or deviation from this Agreement was already present upon the issuance by ISR of any Acceptance Certificate.

~~12.9~~12.11 For the avoidance of doubt it is hereby clarified that Supplier shall not be entitled, directly or indirectly, to receive any additional reimbursement, consideration, cost, fee and/or payment for the provision of the Warranty and the Vehicles Price is deemed as the final complete and inclusive price for the provision of the Warranty and all obligations and undertakings pertaining thereto as well as for all ancillary services and Works required for the provision of the Warranty).

~~12.10~~12.12 Optional Warranty. ISR shall have the option, (but shall not be obliged) to extend the Warranty Period for additional 24 months (the "**Optional Warranty**") by sending the Supplier a notice 30 days prior to the expiration of the Warranty Period. The terms and conditions of the Warranty Period shall apply, *mutatis mutandis*, on the Optional Warranty period.

The consideration for the Optional Warranty shall be as set forth in Annex B. The Supplier shall have no claim whatsoever in any case ISR shall choose not exercise its option to extend the Warranty Period.

13. SPARE PARTS

- 13.1 Supplier shall furnish a detailed Spare Parts List of all necessary and recommended Spare Parts, in the form attached hereto as **Annex E** (the "**Spare Parts List**"). The Spare Parts List shall be in English or Hebrew and shall include the description, original manufacturer's name and part number of original manufacturer for each Spare Part.
- 13.2 Supplier undertakes that during a period of ~~ten-seven~~ (407) years commencing ~~on the Effective Date from the expiration of the Warranty Period of the last Vehicle purchased under the Agreement~~, the recommended Spare Parts will remain available to ISR's purchase.
- 13.3 If Supplier foresees that it will be unable to manufacture and/or supply any or all Spare Parts, for any reason whatsoever, it shall notify ISR in writing six (6) months in advance, so that ISR can make any arrangements necessary to obtain alternate spare parts and Supplier shall support ISR in making all arrangements.
- 13.4 ISR shall be under no obligation whatsoever to acquire any Spare Parts from Supplier. ISR, in its sole discretion, shall decide if, and when, it will acquire the Spare Parts from Supplier during the relevant time period. Supplier shall support ISR in acquiring the Spare Parts even if ISR shall decide not to purchase the Spare Parts from Supplier.

14. LIQUIDATED DAMAGES

- 14.1 Without prejudice to any other relief or remedy available to ISR under this Agreement or under law, in the event that the delivery of the Vehicles or any part thereof is delayed beyond the specified Delivery Time, Supplier shall pay ISR liquidated damages in the sum equal to one-half percent (0.5%) of the value of the Vehicles Price for each calendar week of delay, or any part thereof. The liquidated damages shall not exceed a total of seven and half percent (7.5%) of the value of the consideration specified in this Agreement (the "**Liquidated Damages**").
- 14.2 It is hereby agreed that ISR will not be entitled to the Liquidated Damages for delays of less than thirty (30) calendar days, but for any delay of more than thirty (30) calendar days after the Delivery Time, the Liquidated Damages will accrue from the Delivery Time until actual delivery of the relevant Vehicle.
- 14.3 The liquidated damages in this Agreement have been determined after due consideration of the damages the Parties anticipate that ISR will suffer under the specific circumstances to which each specific type of liquidated damage apply, and therefore they shall not be regarded as a penalty. Payment of the Liquidated Damages shall not be conditioned on ISR having to present evidence of any loss.

- 14.4 In addition, in case the Supplier will not meet the response time specified in the SLA during the Warranty Period, Supplier will pay the Penalties as set forth in Annex A1, unless failure to meet the abovementioned response time is a result of ISR's fault.

15. ALTERATION OF TECHNICAL SPECIFICATIONS

15.1 ISR reserves the right to alter the Technical Specifications ("Changes"). Supplier shall be notified of the alterations in writing by the IPM ("Change Order") in a Change Order Form (attached hereto as Annex H). Any Change Order shall specify a date following which the Vehicles and/or any part thereof shall be designed, manufactured and supplied in accordance with the amended specifications.

15.2 Within ten (10) Business Days following the receipt of a Change Order, Supplier shall provide ISR with a written confirmation and if applicable, shall state on the Change Order Form requested changes to the Vehicles and/or any part thereof, the D Vehicles Price, Delivery Time, and any other terms relevant to the provision thereof.

15.3 The price for any Changes included in the Change Order which is a supplement or addition of parts or systems used elsewhere in the Vehicles and/or any part thereof or which are included in the Spare Parts List, shall be no higher than the price applied to such systems or parts therein.

15.4 Following receipt of Supplier's request for changes as detailed above, the Parties shall, in good faith, review the changes and any changes to the Vehicles Price and Delivery Time requested by Supplier.

15.5 The Changes will be incorporated in the Vehicles, only after and to the extent that the Parties are agreed as to their impact on the Vehicles 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.

15.6 Should Supplier find at any time during the design or manufacture of the Vehicles 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.

15.16. GUARANTEES

~~15.16.1~~ 16.1 To secure the punctual, complete and entire performance of all of Supplier's obligations under this Agreement, including any Works to be performed by any Subcontractor, Supplier will furnish a Down Payment Guarantee and a Performance and Warranty Guarantee (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.

~~15.2~~ 16.2 **Down Payment Guarantee.** Before payment by ISR of the Down Payment specified

in Before ISR effects the Second Payment (as defined in the payment schedule in Section 9 above), and as a condition thereto, the Supplier shall furnish ISR with a bank guarantee in the full amount of the payment above, and as a condition thereto, the Supplier shall furnish ISR with an irrevocable autonomous bank guarantee in the full amount of such Down Payment in the form attached hereto as **Annex F1** (the "**Down Payment Guarantee**"). The Down Payment Guarantee (to the extent not collected) will be in force until, and will be returned to Supplier within thirty (30) days following the issuance of the Acceptance Certificate.

~~15.3~~16.3 **Performance and Warranty Guarantee.** Before ISR effects the Second Payment (as defined in the payment schedule in Section 9 above), and as a condition thereto, the Supplier shall furnish ISR with an irrevocable autonomous bank guarantee, approved in advance by ISR and issued in the form attached hereto as **Annex F2** in the amount equal to ten percent (10%) of the Vehicles Price, valid until two (2) months following the end of the Warranty Period (the "**Performance and Warranty Guarantee**").

~~15.4~~16.4 Supplier shall produce and furnish ISR with all Guarantees under this Agreement at the relevant time for furnishing such Guarantees as stipulated in this Section.

~~15.5~~16.5 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.

~~15.6~~16.6 Except as otherwise specified in this Agreement, the timely submission of any and all Guarantees to be furnished by Supplier to ISR under this Agreement is considered pre-requisites for ISR's execution of any payment due to the Supplier under this Agreement.

16.7 Supplier shall maintain the Guarantees valid through their respective times as stipulated in this Section. If sixty (60) days prior to the expiration of any Guarantee Supplier 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 Supplier 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.

16.8 Prior to the collection of any Guarantee, ISR shall give the Supplier a 14 day notice in which the Supplier shall have the opportunity to rectify the breach.

~~16.~~—

~~16.1~~16.9 Collection ~~on~~ of 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 Supplier of any of its liabilities and undertakings under this Agreement, including its liability to indemnify ISR.

17. INSURANCE

17.1 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 legally licensed insurance company~~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**”):

17.1.1. **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.

17.1.2. **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.

17.1.3. **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.

17.1.4. 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.

17.1.5. 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.

- 17.2 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
- 17.3 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.
- 17.4 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.
- 17.5 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.
- 17.6 For the avoidance of doubt, it is hereby clarified that the limits of liability required by section ~~23~~17.1 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.
- 17.7 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.
- 17.8 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.
- 17.9 The Contractor solely shall bear the premiums and the deductible and/or self-insured retention associated with the Contractor's Insurances.
- 17.10 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 and in relation to property insurance – conditional upon reciprocity; 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.

- 17.11 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.

18. INTELLECTUAL PROPERTY RIGHTS

- 18.1 **Intellectual Property Rights Warranty.** Supplier represents and warrants that it is the owner of all rights and title (including but without limitation Intellectual Property Rights, as defined below) in and to the Vehicles, as well as in any Works and any component thereof (including, without limitation, systems, parts, software incorporated in the Vehicles or integrated with them), and documentation provided to ISR under this Agreement and the Technical Specification and/or Software, and/or that it has obtained sufficient rights and is authorized to give rights to ISR any such Vehicles, Works or documentation and/or any part thereof and/or Software, by the relevant third parties who developed and/or own and/or hold the Intellectual Property Rights thereof, and that ISR may use any part of said Vehicles, Works and documentation and/or Software in accordance with the terms and conditions of this Agreement, including the operation and maintenance of the Vehicles and for the purpose of interface with other ISR's equipment (whether existing now or in the future).

- 18.2 **Non Infringement Warranty.** Supplier warrants that to the best of its knowledge, -the Vehicles, Works and/or Software and documentation, and their use by ISR in accordance with this Agreement (i) do not and will not infringe any patents, copyrights, whether or not registered, trade names, registered and unregistered trademarks, service marks, trade dress, domain name registrations and other source indicators; computer software, including databases; trade secrets, commercial secrets, inventions (whether or not patentable and whether or not reduced to practice), know-how, methodologies, or other intellectual property right of any person ("**Intellectual Property Rights**"), and (ii) no claim, action or suit for the misappropriation or infringement of any Intellectual Property Right has been brought or is pending or, to the best of its knowledge, threatened against Supplier and/or any third party from which Supplier has obtained such Intellectual Property Rights in connection with the Vehicles, Works or documentation provided under this Agreement.

- 18.3 **Responsibility of Supplier.** Supplier shall be solely and fully liable and responsible for the use of, and shall fully and timely pay all royalties, fees and other payments with respect to, all Intellectual Property Rights, licenses and rights of whatever type, manufactured, used, implemented or employed in the design, production, completion, use or operation of the Vehicles and Works and/or Software by Supplier or ISR.

- 18.4 **Grant of License.** Supplier hereby grants to ISR a perpetual, royalty-free license and right to install, use, have used, reproduce and have reproduced and copy (including for backup archival purposes) all software provided in connection with this Agreement, and all

supporting documentation, as necessary solely to support the use of such software on any hardware for the purpose of operation of the Vehicles.

The foregoing license and right is provided at no extra charge to ISR and is included in the Vehicles Price shall remain in full force and effect after the termination and/or cancellation and/or expiration of this Agreement for any reason whatsoever.

18.5~~19.6~~ Rights to Use upon Enjoinment - In case any part of the Works is held to constitute an infringement of any Intellectual Property Right of any third party or its use is enjoined, Supplier shall, within a reasonable time and at its sole cost and expense, and without derogating from any other right or remedy available to ISR under such circumstances, either:

- 18.5.1. Secure for ISR the perpetual right to continue the use of such part of the Works by procuring for ISR a royalty-free license or such other free permission as will enable Supplier to secure the removal of any injunction or other relief that was granted; or
- 18.5.2. Replace such part of the Works with an adequate non-infringing part or modify it so that it becomes non-infringing, without affecting the performance and other qualities of the part in question, all to the IPM's satisfaction.

19. TERMINATION

19.1 This Agreement may be terminated by ISR at its sole and absolute discretion at any time, whether before or after commencement of the Works, by giving Supplier prior written notice of at least fourteen (14) days, if any of the following occurs:

- 19.1.1. Supplier transfers the whole or any part of its undertakings pursuant to this Agreement or substantial properties or assets, by a single transaction or by a number of transactions, without obtaining prior written approval of ISR.
- 19.1.2. Supplier becomes bankrupt, insolvent, or does not pay its debts as they become due, or admits in writing its inability to pay its debts or makes assignment for the benefit of creditors, or liquidation, receiverships, or reorganization proceedings (whether temporary or not) have been commenced against Supplier and have not been removed within twenty one (21) days.
- 19.1.3. An attachment order has been imposed and/or any other execution process has been taken with respect to all or a material part of Supplier's assets, or a part thereof which is material for the performance of any of its obligations hereunder and has not been removed within thirty (30) days.
- 19.1.4. Supplier has stopped managing its business (or substantial portion thereof) or execution of the Works, for a consecutive period of thirty (30) days.
- 19.1.5. Any representation or warranty made by Supplier in this Agreement and/or any certificate, schedule or other document delivered by Supplier pursuant to this Agreement has been false or materially misleading when made.

19.1.6. Supplier breaches any material provision of this Agreement and fails to cure such breach within fourteen (14) days from the date of ISR's notice.

19.1.7. Supplier breaches any provision of this Agreement and fails to cure such breach within thirty (30) days from the date of ISR's notice.

19.2 **Restitution of Payments**. Without prejudice to any other remedies available to ISR under any agreement and/or under any applicable law, in the event that ISR exercises its right to terminate this Agreement for any of the reasons set forth in Section 20.1, then within thirty (30) days from notification by ISR that it has rescinded or terminated this Agreement, prior to the issuance of Acceptance Certificate, Supplier shall return to ISR all payments it has received from ISR in respect of all terminated Works.

19.3 **Termination for Convenience**. In addition to, and without derogating from any other right that ISR may have to terminate this Agreement, including but without limitation pursuant to any other provision of this Section and/or to any Applicable Law, ISR shall have the right to terminate this Agreement at will, without cause and at ISR's sole and absolute discretion .

19.4 Supplier hereby waives the right to termination under this Agreement and/or under law, for any reason. The sole and only remedy available to Supplier under this Agreement is compensation for breach subject to the terms of this Agreement.

19.5 **Effect of Termination**

19.5.1. Subject to Sections ~~19.5.4~~~~19.5.418.5.4~~ and ~~19.5.5~~~~18.5.5~~ below, termination of this Agreement will not limit either Party from pursuing any other remedies available to it under any agreement and/or applicable law, and termination or expiration of this Agreement, from whatever cause arising, shall be without prejudice to the rights of the Parties accrued under this Agreement up to the time of termination.

19.5.2. The provisions of this Agreement which expressly or by their nature are required to survive termination of this Agreement (including but without limitation provisions regarding Warranty, Intellectual Property and Liability) shall survive the expiration or termination of this Agreement.

19.5.3. Upon receipt of any termination notice, Supplier shall, take all required steps and actions to:

(i) Cease all Works according to the IPM's instructions; and

(ii) Transfer to ISR all its rights under all warranties extended by its suppliers.

19.5.4. Payment to Supplier (if and to the extent that Supplier shall be entitled thereto) shall constitute the sole and exclusive remedy (monetary or otherwise) to Supplier in connection with the Agreement and/or the cancellation and/or the termination thereof, and Supplier shall not be entitled to any other payment or recourse for loss of profits or to any other remedy that might be available to it under applicable law and/or agreement (including but without limitation specific performance and/or

injunctive relief) in the event of termination of this Agreement pursuant to this Section.

19.5.5. In the event that ISR decides to terminate the Agreement due to its own convenience, Supplier shall be entitled to receive from ISR reimbursement only for orders placed by Supplier prior to the termination notice, and that cannot be canceled by the Supplier.

~~19.5.5.~~ 19.5.6. Without derogating from Section 19.5.5~~19.5.5~~ above, ~~No~~no damages or other recourses whatsoever (including but without limitation enforcement of this Agreement) shall be due to Supplier, by reason of any termination of this Agreement in accordance with its terms. In particular, but without limitation, Supplier shall not be entitled to any compensation, reimbursement or damage of any kind for any unjust enrichment or tort claim, if any, resulting from the termination of this Agreement as aforesaid and/or on account of loss of prospective profits or investments and/or loss of goodwill or any other causes.

20. RISKS AND LIABILITIES

20.1 **General.** Supplier 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 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):

- 20.1.1. the Works, including but without limitation, their design, assembly, integration, adjustment, tests and trials of the Vehicles (and/or any part thereof), as well as the Warranty;
- 20.1.2. the use of the Vehicles and/or any part thereof, when the Damages arise from faulty design (including errors and omissions in design) or workmanship;
- 20.1.3. any damage to property, death or injury to persons, arising out of, or in connection with, the Vehicles or the Works;
- 20.1.4. Supplier's breach of any term or provision of this Agreement or any applicable law;
- 20.1.5. 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;
- 20.1.6. any negligent or willful act, error or omission by Supplier, its employees, agents, representatives and Subcontractors, in the performance of this Agreement

(including, for the removal of doubt, the execution of the Works);

- 20.1.7. 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 Supplier, its Subcontractors or ISR.

20.2 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.

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

- 20.3.1. Notice of such Proceedings shall be promptly given to Supplier.
- 20.3.2. Supplier 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 Supplier 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.
- 20.3.3. At the request and expense of Supplier, ISR shall afford reasonable assistance to Supplier in the defense of such Proceedings.
- 20.3.4. So long that Supplier timely takes over and properly conducts the negotiations or litigation, Supplier 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 Supplier 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 Supplier's expense, which attorneys will represent ISR in the said Proceedings and may settle such Proceedings, provided that Supplier 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 Supplier 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 Supplier's indemnification obligations hereunder).
- 20.3.5. 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.

20.4 Exclusions. Subject to the provisions of Section 20.5 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.

~~20.5~~ Subject to the provisions of Section ~~20.120.119.1~~, Supplier'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, per each event. In the event that the Supplier'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 Supplier.

~~20.5~~20.6 **Exceptions.** The provisions of Sections ~~20.420.419.4~~ and ~~20.5~~ above shall not apply with respect to:

~~20.5.1~~20.6.1. 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;

~~20.5.2~~20.6.2. Alleged or actual infringement of Intellectual Property Rights by the Works or any part thereof;

~~20.5.3~~20.6.3. Death or injury;

~~20.5.4~~20.6.4. Claim for payment by any Subcontractor.

~~20.6~~20.7 **Withholding of Payments and Collection on Guarantees.** 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 Supplier as per Section 21.1 above, then unless Supplier provides adequate security, to ISR's satisfaction, that the claim will be covered, ISR may (i) withhold all payments then due or thereafter becoming due to Supplier, until such claim is satisfied and such liens or attachments released, and (ii) settle the matter by paying any such claim or removing such lien or attachment, and recover any amounts required in order to do so by collecting upon any of the applicable Guarantees.

21. SUBCONTRACTORS

21.1 Supplier may nominate ~~the~~ Subcontractors as detailed in this Section and shall inform ISR on the identity of such Subcontractors in writing and in advance.

21.2 Suppliers hereby warrant that all Subcontractors meet and continue to meet all conditions detailed in the Technical Specifications.

21.3 Suppliers hereby warrants 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 Supplier of its responsibility to ISR in connection with the execution of the Works, the supply of the Turnouts and the fulfillment of the obligations under this Agreement or from any liability assumed by or imposed upon Supplier 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 Supplier shall be fully responsible towards ISR for the acts and omissions of the Subcontractors.

22. **FORCE MAJEURE**

22.1 Neither Party shall be liable for any delay in the performance of the Agreement, if such delay is, directly or indirectly, caused by, or arises from, an impediment beyond the control and without fault or negligence of the party effected, including the following occurrences fires, floods, accidents, civil unrest, acts of God, pandemic, war, governmental interference or embargoes, strikes, labor difficulties or transportation delays of the Vehicles ("**Force Majeure**").

22.2A Party affected by an event of Force Majeure shall (a) promptly notify the other party in writing of any such event, the expected duration thereof, and its anticipated effect on the party affected in terms of the performance required hereunder; and (b) make reasonable efforts to promptly remedy any such event of Force Majeure. Any Works or supply delayed due to an event of Force Majeure shall be extended for such time as the event shall continue.

23. **LANGUAGE**

This Agreement and any correspondence with regard to this Agreement shall be in English. All correspondence, orders, documentation, drawings, specifications, instructions, manuals etc. made by the Parties in performance of this Agreement will be in English or Hebrew.

24. **APPLICABLE LAW AND SETTLEMENT OF DISPUTES**

24.1 This Agreement shall, in all respects, be governed by and construed in accordance with the laws in force from time to time in the State of Israel.

24.2 The Uniform Law on International Sales (1964) and the United Nations (Vienna) Convention Contracts for the International Sale of Goods of April 11, 1980 shall not be applicable to this agreement.

24.3 Any dispute in connection with the Agreement including its validity or interpretation shall be settled between the Parties. This also applies to other legal matters arising out of or in connection with this Agreement. The negotiations shall be conducted by at least two persons chosen by each party for this purpose. The timeframe for the settlements of disputes between the Parties shall not exceed a period of three (3) months.

24.4 All matters in dispute, following failure of negotiations as outlined above, shall be referred to the competent court located in Lod, Israel, and the competent Israeli courts shall have exclusive jurisdiction in all matters arising therefrom unless otherwise mutually and expressly agreed, in writing, by the Parties.

24.5 **Dispute not Effecting Delivery.** Supplier agrees and undertakes that no Dispute shall entitle Supplier to delay or withhold (i) the continuation of the Works so as to meet the Delivery Schedule or any other schedules agreed between the parties, and/or (ii) the performance of the Warranty, subject to ISR paying to Supplier any undisputed amounts, and the dispute shall be resolved pursuant to the dispute resolution process specified in Section ~~24.323.3~~ above.

25. MISCELLANEOUS

25.1 **Waiver of Lien Supplier.** Supplier hereby waives from the moment of Acceptance any possessory lien, mechanic's lien or similar possessory or retention right (in Hebrew: "זכות עיכבון") and preservation of ownership (in Hebrew: "שימור בעלות") (collectively, "**Retention Rights**") against ISR with regard to the Vehicles and the Works, including, but not limited to, the items of the Works that are in the possession of Supplier in Supplier's workshops or which are in the possession of Subcontractors. Supplier represents and warrants that the consideration to be paid by ISR under this Agreement includes ample financial provisions concerning the waiver by Supplier of all Retention Rights with regard to the Works, and the payments to be made by Supplier to its Subcontractors contain ample financial provisions for the insertion of a clause requiring a similar waiver by said Subcontractor in connection with the Works.

25.2 **ISR's Set-Off Right.** Without derogating from any right of set-off conferred upon ISR elsewhere in this Agreement or under applicable law, ISR shall have the right to set-off against any amounts that may be owed to Supplier (or to any Subcontractor, as the case may be) pursuant to this Agreement and/or to any other Agreement between ISR and Supplier, any amount, debt or payment owed by Supplier (or by any Subcontractor) to ISR pursuant to this Agreement (including but without limitation in the form of indemnification or compensation for damages, regardless if their sum is liquidated or not). **Such set-off by ISR shall be subject to a prior 14 days notice to the Supplier.**

25.3 **Exercise or non exercise of rights by the Parties.** Consent by a party to deviate from any of the provisions of this Agreement in a particular case shall not constitute a precedent, and no inference by analogy shall be drawn from it in respect of any other case. If a party does not exercise any of the rights conferred upon it by this Agreement or any Guarantee arising hereunder in a particular instance, such fact shall not be regarded as a waiver of those rights in any other instance and shall not be considered as implying or indicating a waiver of any right under this Agreement.

25.4 **Entire Agreement; Amendments.** This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof, superseding all prior and contemporaneous drafts (including drafts of the Agreement that formed part of the Tender), proposals, negotiations, communications, documents, understandings and agreements, written or oral, with respect to the subject matter of this Agreement, unless specifically incorporated herein by reference. Any such superseded documents shall not be used in any manner for the interpretation of this Agreement and shall not constitute admissible evidence in any proceedings between the parties. This Agreement may only be amended by a written document signed by both parties.

25.5 **No third party beneficiaries.** All rights and obligations of the parties hereunder are personal to them. This Agreement is not intended to benefit, nor shall it be deemed to

give rise to, any rights to any third party (including, without limitation any Subcontractor).

25.6 **Assignment.** This Agreement, including the rights and obligations herein, may not be transferred by Supplier to any third Party without receiving ISR's prior written consent. Notwithstanding the above, ISR shall consent to the assignment of Supplier's right to receive payment under this Agreement to Supplier's bank, provided a dully written notice is provided to ISR in advance and ISR's right shall not be prejudiced.

25.7 **Severability.** If any provision of this Agreement is held or made invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect the remainder of this Agreement, and the invalid or unenforceable provisions shall be replaced by a mutually acceptable provision, which, being valid, legal and enforceable, comes closest to the original intentions of the parties hereto and has like economic effect.

25.8 **Notices.** All notices, unless otherwise expressly provided in this Agreement, shall be in writing and shall be sent by either of the parties to the other party by registered mail, or personal delivery to the addresses set forth at the head of this Agreement, and shall be deemed to have been given seven (7) Business Days after the date on which the notice was posted, or in the case of notice by fax, twenty four (24) hours after dispatch by fax, or in the case of personal delivery, at the time of delivery.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT BY THEIR DULY AUTHORIZED REPRESENTATIVES AS OF THE EFFECTIVE DATE.

ISRAEL RAILWAYS LTD.

Signature:

Title: **CEO**

Printed Name:

Signature:

Title: **CFO**

Printed Name:

Signature:

Title:

Printed Name:

Signature:

Title:

Printed Name:

Annex A1

Technical Specifications

Annex A2

Supplier's proposal to the TENDER

Annex B
Consideration Annex

Annex C
Supplier's Bank Account Information

PART A – Supplier's Bank Details

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

On behalf of the Supplier, _____-[Supplier name], we the undersigned, _____[authorized signatories on behalf of the Supplier] hereby request that all payments to be paid to the Supplier by Israel Railways Ltd. under this Agreement shall be made by means of bank transfer to the Supplier'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 _____ [Supplier] (the "Supplier") to sign the Bank Account Form, and hereby certify that their signatures upon the Bank Account Form are fully binding upon the Supplier in accordance with the Supplier's articles of association.

Signature and stamp: _____

Bank Account Form

PART B - Certificate of Authorization

[alternative authorization: to be completed by the SUPPLIER'S BANK]:

We, the undersigned _____ [Bank] hereby declare that as of _____ [date of Supplier's signature on Part A above] the _____ [Supplier] is the registered owner of the above mentioned account and certify that Part A above has been signed by the Supplier'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 D

Form of Acceptance Certificate

To:

[Name of Supplier]

[Street]

[City]

[Country of origin]

From:

Israel Railways Ltd.

3 Darchei Moshe St., Lod 7136801

Israel

We hereby certify that the Vehicles, 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 Supplier]*

Name

Date

Annex E

Spare Parts List

.

Annex F1

Form of Down Payment Guarantee

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

Down Payment *[delete as applicable]* Guarantee

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

Now, we Bank _____ hereby irrevocably guarantee to ISR to be responsible and indemnify ISR for repayment by Supplier 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 Supplier, 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 Supplier or on the part of any person acting for Supplier 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 Performance and Warranty Guarantee

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

Performance and Warranty Guarantee

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

Now, we Bank hereby irrevocably guarantee to ISR due, punctual, true, faithful and satisfactory performance by Supplier 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 Supplier of all sums of money, losses, damages, costs, charges and expenses that may become due or payable to ISR, by or from Supplier by reason or in consequence of the default of Supplier 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 Supplier, 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 Supplier or on the part of any person acting for Supplier 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

Safety and Security Regulations

Annex H
Change Order Form

Part 1

FROM: _____

ISR Project Manager

CHANGE ORDER NUMBER: _____

DATE OF CHANGE ORDER: _____

TO: _____

Supplier

IN ACCORDANCE WITH OUR AGREEMENT MADE EFFECTIVE AS OF _____, 26 _____, YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ALTERATIONS TO THE TECHNICAL SPECIFICATIONS, DETAILED BELOW. AS OF _____, 26 _____, THE VEHICLES 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 VEHICLES AND/OR ANY PART THEREOF, VEHICLES 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

Supplier's requests for changes

Signature: _____

SPM, on behalf of the Supplier

Date:

Part 3

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

Signature: _____

IPM, on behalf of ISR

Date:

Signature: _____

SPM, on behalf of the Supplier

Date: