
Procurement & Contracting Division

Tender No. 41901

**For the Development, Supply, Installation, Implementation, Testing, Qualification, Support,
Warranty and Maintenance of Train Traffic Simulator for ISR's Traffic Controllers
("Tender")**

General Terms and Conditions

Israel Railways Ltd. ("ISR"), in accordance with its obligations under the Israeli Mandatory Tender Laws, its implementing regulations and the International Agreement on Government Procurement, wishes to obtain bids for:

The Development, Supply, Installation, Implementation, Testing, Qualification, Support, Warranty and Maintenance of Train Traffic Simulator for ISR's Traffic Controllers ("TTS"), all in accordance with and subject to the terms specified in these General Terms and Conditions and the accompanying Tender Documents.

Without derogating from the provisions of the Tender, the simulator is required to simulate completely ISR's signaling monitoring TTS (CMD900) in the geographic area of twenty stations. It is hereby clarified that during the milestone ESTW90IL, ISR shall decide, at its sole discretion, whether those twenty stations shall be existing stations or non-existing stations (based on typical stations).

1. Pre-requisites for Participation in the Tender (the "Prerequisites"):

- 1.1. The bidder must be the developer, manufacturer, supplier and installer of the proposed TTS.
- 1.2. The bidder has supplied, installed and implemented, commencing from 2014 and up to the final submission date, at least two (2) TTSs that have been in commercial operation for at least one (1) year, for at least two (2) different Railways Companies.

2. Proof of Compliance with the Prerequisites:

- 2.1. Bidder shall prove full compliance with the Prerequisite specified in Section 1 above, by submitting to ISR all the details, documents and confirmations required under the provisions of the Prerequisites which shall include, *inter alia*, the following:
 - 2.1.1. Bidder shall prove its full compliance with the Prerequisite set forth in Section 1.1, by submitting a declaration certifying that it is the developer, supplier and installer of the proposed TTS.

- 2.1.2. Bidder shall prove its full compliance with the Prerequisite set forth in Section 1.2 by submitting a signed and completed Experience and Reference List, in the form attached hereto as Appendix D, evidencing that Bidder has developed, supplied, installed and implemented, commencing from 2014 and up to the final submission date, at least two (2) TTSs that have been in commercial operation for at least one (1) year, for at least two (2) different Railways Companies in countries that has diplomatic relations with Israel.
 - 2.2. In addition, Bidder shall submit additional proof such as reports and other relevant documentation substantiating the Prerequisites.
 - 2.3. Notwithstanding the aforesaid, ISR reserves its right, at its sole discretion, not to disqualify proposals which do not contain all the documents and certificates necessary to prove the Bidder's compliance with the Prerequisites. ISR shall have the right, at its sole discretion, to request from any of the Bidders, details and/or approvals and/or recommendations and/or certificates and/or additional documentation and information, required in order to allow ISR a full and complete review of the aforementioned.
 - 2.4. Bidder shall undertake to maintain its compliance with the Prerequisites specified in Section 1 above at all times, up to and/or including the Proposal Validity Period as set forth in Section 14 below.
 - 2.5. Compliance with pre-requisites through an affiliate and/or sub-contractor:
 - 2.5.1. A participant may demonstrate compliance with some or all of the Technical Pre-requisites specified in Section 1 through an Affiliate and/or a Sub-contractor of such Participant.
 - 2.5.2. Each Affiliate and/or sub-contractor shall execute the relevant Works, which are the subject matter of the Technical Pre-requisites regarding which compliance was demonstrated through such Affiliate and/or subcontractor. For each Affiliate and/or subcontractor, Participant must submit **Attachment G** signed by the Participant and the Affiliate and/or subcontractor, evidencing the appointment of the Affiliate and/or subcontractor for the execution of the applicable Works, if the Participant is selected as the winning bidder in the Tender.
 - 2.5.3. For the removal of doubt, execution of Works by an Affiliate and/or subcontractor shall not derogate from Participant's responsibility for the full performance of the Works.

3. **Technical Requirements**

- 3.1. All bids must comply with all of the requirements and terms included in the Technical Specifications (Appendix A). In addition, Bidders will be evaluated in accordance with the Evaluation Table attached as Appendix F to this Tender Document.

4. **Bid Guarantee**

- 4.1. ISR shall require all Bidders that meet the requirements specified in Section 1 above to submit ISR a bid guarantee within thirty (30) days following the receipt of such written request from ISR, in order to secure the due, timely and complete performance of each Bidder's obligations under its proposal, including the validity of its proposal (the "**Bid Guarantee**").
- 4.2. The Bid Guarantee must be an unconditional and irrevocable first class bank guarantee to the order of Israel Railways Ltd., in the amount €119,000 (one hundred and nineteen thousand Euros), in Euro currency only, valid at least up to and including 9 months after Final Submission Date.
- 4.3. It is hereby clarified that in any event that a Bidder is requested to submit a Bid Guarantee, and fails to submit such Bid Guarantee as specified in Sections 4.1 and 4.2 above, the Bidder shall not be entitled to further participate in the Tender Process.
- 4.4. In any event that a Bidder is requested to extend the Proposal Validity Period (as defined in Section 14), the Bidder shall be required to extend the period of the Bid Guarantee for the same duration of the extension of the Proposal Validity Period. ISR shall have the right, at its sole discretion, to disqualify a proposal submitted by a Bidder which fails to extend the period of the Bid Guarantee as required herein.
- 4.5. ISR shall be entitled, at its sole and absolute discretion, to exercise the Bid Guarantee or any part thereof, after the Bidder was given the opportunity to present its arguments, in case, *inter alia*, one of the following occurs: (1) during the Tender process, the Bidder acted in a misleading manner or in bad faith; (2) the Bidder provided misleading information or omitted material information; (3) the Bidder retracted its proposal to the Tender after the Final Submission Date; (4) after being selected as the winning bidder in the Tender, the Bidder did not follow the instructions of the Tender, which constitute a condition for ISR's engagement of the winning bidder. The Bid Guarantee shall also serve as agreed compensation without proof of damage as defined in Section 15 of the Contracts Law (Remedies for Breach of Contract) 5761-1970.
- 4.6. Commencing from the Effective Date as defined in the Agreement, the Bid Guarantee furnished by the winning bidder for the purposes of the Tender shall secure the performance of all of the winning bidder's obligations under the Agreement, until replacement thereof by the Performance and Warranty Guarantee, as defined in the Agreement. Upon the receipt of the notification of being selected as the winning bidder, the winning bidder shall extend the validity of the Bid Guarantee submitted by it to ensure the continuing effect of the Bid Guarantee, until replacement thereof by the Performance and Warranty Guarantee, as defined in the Agreement.

5. Governing Agreement

- 5.1. The Development, Supply, Installation, Implementation, Testing, Qualification, Support Warranty and Maintenance of the TTS, including but not limited to, the price, terms of payment, warranty, scope of liability, responsibility and all other general and legal terms for the engagement with the winning bidder (the "**Supplier**"), shall be governed by the

terms and conditions of the Agreement (Appendix C). The Agreement and the annexes attached thereto constitute an inseparable part of this Tender.

- 5.2. Each Bidder agrees to be bound by the Agreement in the event that it is chosen as the Supplier. Once the Supplier is chosen and the Agreement is signed by ISR, the provisions of the Agreement shall take precedence over the provisions of this Tender in the event of a contradiction between them.

6. **Purchase Order**

ISR intends to issue a Purchase Order for one (1) TTS (the "**Purchase Order**") within two (2) months from the effective date of the Agreement (the "**Effective Date**") subject to the terms and conditions set forth in the Agreement.

7. **Delivery Terms and Time**

The terms and time of supply and delivery of the TTS shall be as set forth in the Agreement.

8. **Agreement Period**

The Agreement Period shall be as set forth in the Agreement.

9. **Price Proposal**

- 9.1. The Bidder shall provide the proposed price for the TTS (the "**Proposed Price for the TTS**"), in accordance with Appendix B attached hereto.
- 9.2. The Prices shall be quoted in Euro currency only.
- 9.3. The Prices shall be inclusive of all Additional Features, twenty-four (24) months of Warranty, Qualification, Updates and all other works and services detailed under the Agreement.
- 9.4. The Proposed Price for the TTS shall be fixed and shall not be linked to any price increase mechanism. The Proposed Price for the TTS is the final, complete and inclusive price that will be paid to Supplier for the TTS and all drawings and documentation related thereto and all costs related to the Warranty, Qualification, Updates, Service Support and the accompanying services to be provided by Supplier during the Warranty Period and/or the term of the Agreement. Supplier shall not be entitled to any other payment, fee or compensation whatsoever from ISR.
- 9.5. The Prices shall also include all taxes, fees, duties, licenses, costs or other payments that are to be paid in connection with the exportation, supply and delivery of the TTS, including but not limited to all types of importation and custom duties and services, such as transportation costs, customs agents' fees, purchase tax (in Hebrew "Mas Kniya" or "מס קניה"), wharfage fees (in Hebrew "Dmei Ratzif" or "דמי רציף"), Israeli customs duties, port handling fees (in Hebrew "Dmei Nitul" or "דמי ניטול"), port infrastructure fees (in

Hebrew "Dmei Tashtit" or "דמי תשחית"), cleaning of the containers, stuffing, unloading and un-stuffing of the containers, cam locks for discharging the TTS at port, supervision while discharging at port, discharging terms at port, etc. Notwithstanding the above, Israeli Value Added Tax, if applicable, shall be borne by ISR. For the sake of clarity, the Prices shall include any sum which the Israeli Tax Authorities require to be withheld at source.

- 9.6. The Bidder shall also provide the proposed price for Yearly Maintenance Period, up to a period of eight (8) years ("**Yearly Proposed Price for the Maintenance Period**"), in accordance with Appendix B attached hereto.
- 9.7. The Bidder shall also provide the proposed price for Support of the TTS and/or any additional service required, after the termination of the Warranty Period (the "**Proposed Price for Additional Features**"), in accordance with Appendix B attached hereto.
- 9.8. The Bidder shall also provide the proposed price for Working Days during the agreement period (the "**Proposed Price for Working Days**"), in accordance with Appendix B attached hereto.
- 9.9. It is hereby clarified that the Bidder shall not include zero and/or negative Discount Rate within its price proposal in Section 5 of Appendix B.
- 9.10. The Proposed Price for the Additional Services, for the Yearly Maintenance Period and for the Working Days, shall be fixed and shall not be linked to any price increase mechanism for a period of two (2) years commencing on the Final Submission Date.
- 9.11. As from two (2) years from the Final Submission Date, the Prices shall be linked to the European Consumer Price Index (HICP E25 - Overall index, Monthly Index, (2005=100) as published at Eurostat website: <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&language=en&pcode=teicp000&tableSelection=1&plugin=1> ("**HICP**").
- 9.12. The basic index for the HICP shall be the last known index on the Final Submission Date.
- 9.13. To preclude any doubt, the Bidder must fill in all the Appendix B. In the event that no price will appear in one or more rows, such proposal may be disqualified.
- 9.14. It is hereby clarified that the Bidder shall not include in Appendix B zero and/or negative Discount Rate within its price proposal.
- 9.15. Each Bidder shall solely bear all costs associated with the preparation and submission of its bid. This shall include, without limitation, any and all expenses and losses, which may be incurred by Bidder, consultations with professionals, conducting investigations and inquiries of any kind, preparation of surveys and documents and the authentication and translation thereof and any other aspects in connection with the bid. ISR will in no case

be responsible or liable for any of the above costs, nor shall it be required, under any circumstances, to reimburse any such costs to any Bidder.

10. **Terms of Payment**

Payment by ISR to the Supplier shall be as set forth in the Agreement.

11. **Evaluation process and selection of Winning Proposal**

11.1. The evaluation of the bids submitted by Bidders shall be conducted by ISR in accordance with the following process:

11.1.1. **Stage A – Preliminary Evaluation:**

11.1.1.1. **Stage A1** – Pre-Requisite: Bidders will be reviewed in order to certify compliance with Section 1 above.

11.1.1.2. **Stage A2** - Bid Guarantee: Bidders which satisfy Stage A1 above shall be required to submit a Bid Guarantee, as specified in Section 4 above.

11.1.2. **Stage B – Technical Evaluation:** The Technical Proposals shall be evaluated as follows:

- a) Bidder's proposal will be reviewed in order to certify compliance with the Technical Specifications.
- b) In parallel, Bidder's proposal will be evaluated in accordance with the Evaluation Table attached as Appendix F to the Tender Documents, on the basis of their technical proposal ("**TE**").
- c) Finally, Bidder's Final Technical Evaluation Score ("**FTES**") will be calculated, pursuant to the following formula:

$$\mathbf{FTES = TE*10}$$

Where:

FTES - Bidder's Final Technical Evaluation Score

TE – Table Evaluation points.

11.1.3. **Stage C - Commercial Evaluation:** ISR shall open the commercial proposals of Bidders who satisfied Stage A, proved compliance with all requirements of the Technical Specifications and achieved a score of at least 5 points at the TE, as detailed in Stage B above.

Nevertheless, in the event that less than two (2) Proposals shall be awarded 5 TE points and above in Stage B, ISR may, at its sole discretion, decide not to disqualify any of the Proposals awarded less than 5 TE points.

In accordance with Bidder's Total Evaluated Price as determined in Appendix B, the Commercial Evaluation Score (“**CES**”) will be calculated pursuant to the following formula:

$$\mathbf{CES = \frac{LTEP * 90}{BTEP}}$$

Where:

CES – Bidder’s Commercial Evaluation Scoring

LTEP – Lowest Total Evaluated Price of all valid proposals, calculated in accordance with Appendix B.

BTEP – Bidder's Total Evaluated Price, calculated in accordance with Appendix B.

11.1.4. Stage D: Final Scoring

The Conditional Winner's proposal, as defined below, shall be the proposal that obtained the highest Final Scoring (“**FS**”), which shall be calculated as follows:

$$\mathbf{FS = CES + FTES}$$

Where:

FS – Final Scoring

CES – Commercial Evaluation Scoring, calculated pursuant to Section 11.1.3 above.

FTES – Final Technical Evaluation Score, calculated pursuant to Section 11.1.2 above.

11.1.5. Stage E - Nomination of Conditional Winner:

11.1.5.1. Conditional Winner shall be the Bidder whose proposal fully complies with the Prerequisites specified in Section 1 above and has achieved the highest FS (Final Score) as specified in Section 11.1.4 above.

11.1.5.2. Nevertheless, it should be clarified that in the course of the evaluation process, ISR may consider additional relevant aspects, as ISR may deem fit.

11.1.6. Stage F - Conditional Winner's Examination:

11.1.6.1. ISR's representatives may, at their sole discretion, visit Conditional Winner's Factory (as defined in the Agreement) in order to evaluate Conditional Winner's ability to perform its undertakings under the Tender.

ISR representatives may require (in addition to the visit at Bidder's Factory or in lieu) to inspect TTS (s) manufactured by Conditional Winner's at Conditional Winner's customers in order to verify Conditional Winner's ability to perform its undertakings under the Tender.

11.1.6.2. The Winning Bidder shall be the Conditional Winner that receives from ISR a Winning Bidder's Notice, as detailed below.

11.1.6.3. The Winning Bidder shall be the Bidder whose proposal fully complies with the Pre-requisite specified in Section 1 above, as well as the Tender's requirements, and has the lowest TEP (Total Evaluated Price), as specified in Section 3 of the Bidder's Proposal Form (Appendix B).

11.1.6.4. When reviewing the proposals submitted, ISR reserves the right, in its sole discretion, to take into consideration negative past experience of ISR and/or any other entity with any particular bidder and ISR may reject any particular proposal based solely on such past experience.

12. Submission of Proposals

12.1. All proposals must be submitted no later than **August 15th, 2019 by 13:00** (Israel time) ("**Final Submission Date**"), in three (3) separate envelopes, and these three envelopes shall all be inserted into one main envelope as specified below, which shall read "**Tender No. 41901**" (hereinafter the "**Main Envelope**") at the address set forth below.

12.2. The proposal may be submitted by a single Bidder. A Bidder which submits more than one proposal shall be disqualified.

12.3. The proposal is to be submitted in two (2) copies into Tender Box No. 8, located at the following address:

Israel Railways Ltd.
Contracting & Procurement Division – Tender Box #8
Yoseftal, 1, Lod, Israel

12.4. The Bidder is requested to read carefully all of the documents attached herein and submit the following documents which should be included in the Main Envelope, signed, where applicable, by the authorized signatory bodies.

12.5. A separate envelope (**1**) which shall read "**Commercial Proposal - Tender 41901**" shall be inserted in the Main Envelope and shall include the following:

12.5.1. A signed and completed Bidder's Proposal Form (Appendix B).

12.5.2. A signed and completed Spare Parts List Form (Appendix E).

- 12.6. A separate envelope (2) which shall read "**Pre-requisites - Tender 41901**" shall be inserted in the Main Envelope and shall include the following:
- 12.6.1. A signature on the last page of the Agreement (Appendix C), including the Bidder's relevant information in the heading thereof (excluding the date) and including the Bank Account Form, attached to the Agreement as Annex C (only the winning bidder is required to complete part B of the Bank Account Form).
 - 12.6.2. A signed and completed Experience and Reference List, in the form attached hereto as Appendix D.
- 12.7. A separate envelope (3) which shall read "**Technical Proposal - Tender 41901**" shall be inserted in the Main Envelope and shall include the following technical information:
- 12.7.1. A signed copy of the Technical Specifications (Appendix A).
 - 12.7.2. Company profile of the Bidder and its expertise; Company profile of any subcontractor and its expertise; relevant information and data regarding the TTS.
 - 12.7.3. Two (2) sets of instructions regarding the packing, transporting and storage and instructions of the TTS in English or in Hebrew.
 - 12.7.4. Any and all drawings, documentation, information and certifications required pursuant to the Technical Specifications.
 - 12.7.5. A short video clip, presenting a demonstration of a working TTS in commercial use.
 - 12.7.6. All information shall be submitted also in a PDF file format and a soft copy open for changes and notes (for ISR's convenience)
- 12.8. ISR shall be entitled to postpone the final submission date at its sole discretion.

13. **General**

The following appendices are attached hereto:

- Appendix A*** - Technical Specifications;
- Appendix B*** - Bidder's Proposal Form;
- Appendix C*** - A copy of the Agreement;
- Appendix D*** - Experience and Reference List;
- Appendix E*** - Spare Parts List;
- Appendix F*** - Technical evaluation;
- Appendix G*** - Appointment of the Affiliate and/or sub-contractor
- Appendix H*** - Non-Disclosure Undertaking

14. **Proposal Validity**

14.1. All submitted proposals must be valid until at least nine (9) months from the Final Submission Date as set forth above (the "**Proposal Validity Period**"), and may not be revoked or changed by the Bidder during this period for any reason whatsoever. In the event that ISR shall not enter into a contractual relationship with the winning bidder, for any reason whatsoever, and/or the agreement with the winning bidder will be cancelled, ISR shall be entitled to elect, as a winning proposal, the proposal which achieved the next best Final Score. The terms set forth in this section shall apply, *mutatis mutandis*, following the replacement of the Bidder's proposal as aforesaid.

15. **Verification**

15.1. ISR shall have the right, at its sole and absolute discretion, to verify the recommendations and other documents provided by the Bidder, and to request from any of the Bidders additional details, approvals, recommendations and/or certificates. In addition, ISR may, at its sole and absolute discretion, upon prior coordination with the Bidder, inspect the facilities of such Bidder at any time or any facilities where components of the TTS proposed by the Bidders are being manufactured. ISR may, at its sole and absolute discretion, contact and/or visit each of the customers detailed in Appendix D in order to check and evaluate the Pre-requisites, the Technical Proposal, and/or Bidder's Proposal.

16. **Negotiations**

16.1. ISR reserves the right, at its sole discretion, to conduct negotiations with any of the Bidders in this Tender that it finds suitable, with respect to their commercial and/or technical proposal, or not to conduct negotiations at all.

16.2. Without derogating from the above, ISR shall have the right to instruct all Bidders whose Commercial Proposals were evaluated, to submit an additional improved Commercial Proposal in the event that all bids received are less favorable to ISR than the ISR estimation and/or to cancel the Tender. Bidders hereby forfeit any claim in the event that ISR shall decide to act in such manner.

17. **Language of Bids**

17.1. All documents submitted by the Bidder in this Tender (including but not limited to all attachments, schedules, annexes, sketches, drawings, diagrams, tables and charts) and any additional information, question, request for clarification and interpretation, or any other communication, must be in English or Hebrew only, unless otherwise specifically stated in the Tender Documents or approved by ISR.

18. **Confidentiality and Proprietary Rights**

18.1. By participating in the Tender process, each purchaser of the Tender Documents and each Bidder are deemed to have agreed to keep in strict confidence, and not to disclose and not to make any use of any information or data, or any form or media, partial or complete, provided to them by ISR on its behalf or made known to them otherwise as a result of or in connection with the Tender; except that each Bidder may use such information or data solely for the purpose of preparing its bid. It is hereby clarified that this Section 18 shall not apply to documents and/or information published by ISR on its website.

- 18.2. By submitting a bid, each bidder (including its members) shall be deemed to represent and warrant to ISR that (i) it is not bound by any contractual or statutory obligations which would preclude the Bidder from providing the data and information contained in the bid or any portion thereof, (ii) it has the right to make all disclosures that are made in the Bid; (iii) the data and information contained in the bid do not include any confidential information, trade secret or other proprietary information of the bidder and/or to any third party (except as and to the extent that the bidder may otherwise clearly indicate in writing) that ISR is prevented from using it.
- 18.3. The undertakings herein shall not derogate from the undertakings of Bidder pursuant to the Non-Disclosure Undertaking (**Attachment H**) that Bidder shall execute and submit as part of its Bid.
- 18.4. All rights and titles in and to any and all drawings, sketches, and other technical documents and information provided by ISR or on its behalf to the Bidder as well as to all of the Tender Documents and the contents thereof, shall be deemed to be the sole and exclusive proprietary of ISR, and/or their use by third parties allowed by ISR.
- 18.5. **Disclosure of the Bid.** Bidder shall indicate in its Technical Proposal whether any data and information included therein, which shall be clearly identified, constitute a commercial secret, confidential information, trade secrets or other confidential proprietary information of Bidder, which should be protected from disclosure. Notwithstanding the above, Bidder hereby acknowledges that subject to the provisions of the Israeli Mandatory Tenders Regulations, 5753-1993, should its Bid be selected as the Winning Bid, such Bid or any part thereof may be disclosed to any third party, including, *inter alia*, to any other Bidder. Bidder also acknowledges that ISR is subject to the Israeli Freedom of Information Act, 5758-1998
- 18.6. Bidders shall submit a signed copy of Appendix H (Non-Disclosure Undertaking) at any moment before the Final Submission Date, in order to receive drawings, sketches, and any other technical documents and information provided by ISR, which is not included in the Technical Specifications. It is hereby clarified that bidders will only have access to these documents, after submitting a signed Appendix H.

19. **Bidders Meeting**

- 19.1. Bidders Meeting for potential Bidders shall be held in Israel. Specific date and hours shall be published at ISR's website. Bidders will be requested to notify ISR of their intention to participate in the above meeting (including the number of persons) at least ten (10) days before the date of the meeting, to the mail specified in Section 21.4.4.
- 19.2. ISR may arrange organized visits to inspect the areas designated for the Project, at a date and time to be scheduled by ISR. It is hereby specified that the organized visits might be held as part of the Bidders meeting.

20. **General Prerogatives of ISR**

- 20.1. A proposal reflecting any reservation regarding the attached documents or any part thereof, including the Agreement or the appendices attached thereto, whether by rejection, insertion or amendment to any part of the attached documents, may be disqualified.
- 20.2. ISR shall not be bound to accept the lowest-priced proposal or any other proposal whatsoever. In addition, ISR does not commit itself in any way to acquire the TTS or to enter into a contractual relationship with any of the Bidders.
- 20.3. Any of the TTS acquired, shall be on a non-exclusive basis and ISR at its sole discretion may at any time purchase a TTS from any of the Bidders, and/or may acquire similar or identical TTS from any third party.
- 20.4. The issuance by ISR of a Purchase Orders under the Agreement shall be following the receipt of the necessary budgetary approvals.
- 20.5. ISR, at its sole discretion, may decide not to select any of the submitted proposals or may decide to cancel the entire Tender at any time.
- 20.6. ISR reserves the right to reject the proposal of a Bidder which does not have the financial strength required for the performance of the Agreement or whose commercial Proposal is significantly lower than ISR's estimation.
- 20.7. In addition to any other event which entitles ISR by law, to cancel the Tender, ISR reserves the right, at ISR's sole discretion, to cancel this Tender in the following events:
 - 20.7.1. If only one of the bids is found suitable, according to the Pre-requisites and/or other specification requirements according to this Tender Documents;
 - 20.7.2. If ISR concludes that there was a flaw in the Tender process and/or in the evaluation of the bids;
 - 20.7.3. If ISR has found that a critical mistake has been made in the Technical Specifications, inter alia, by giving false data, missing data or incomplete data;
 - 20.7.4. If the circumstances and/or ISR's requirements have been significantly changed, to such extent which requires the cancellation of the Tender;

21. **Tender Procedure – General**

21.1. **Download of the Tender Documents**

- 21.1.1. Tender Documents are available for review and download at no charge at ISR's website at the following address:

<http://www.rail.co.il/HE/ISRTenders/Pages/TenderList.aspx>

(the interface at ISR's website with respect to the Tender Documents is currently in Hebrew only).

21.2. Amendment of Tender Documents

- 21.2.1. At any time prior to the Final Submission Date, ISR may amend the Tender Documents by publishing notices to the Bidders. Any notice thus published shall be deemed as an integral part of the Tender Documents, and shall be communicated in writing. Each bidder shall promptly acknowledge receipt of each notice to ISR (however, each notice shall be binding upon each Bidder, regardless whether the bidder has acknowledged receipt of such notice(s) or not).

21.3. Notification of the Winning Bidder

- 21.3.1. ISR shall send notification of its decision to the Bidder selected as the winner in the Tender. Notification shall also be sent to the other Bidders. For the removal of doubt, the aforementioned notification of the winning bid shall not constitute the formation of a contract between ISR and such Bidder, and the entering into a binding agreement is conditioned upon the fulfillment of all required terms and conditions as detailed in the Tender Documents and the Agreement.

21.4. Request for clarifications and/or additional information

- 21.4.1. Any Bidder may submit to ISR, in writing, inquiries and/or requests for clarification and/or additional information regarding the Tender or relating to the Tender Documents, as specified herein below (a "**Request for Clarification**").
- 21.4.2. A Request for Clarification shall be titled "Request for Clarification" and shall clearly specify to which Tender Documents (volume, attachment, section) it refers.
- 21.4.3. Bidders shall submit Requests for Clarification with respect to any errors, ambiguities, inconsistencies, omissions, erroneous, unclear or imperfect provisions ("**Errors**") in the Tender Documents. It is clarified that by submitting its Bid, Bidder irrevocably and unconditionally waives any claim, demand or legal or administrative proceeding alleging or claiming that the selection process in the Tender has been influenced or biased by an Error and/or that Bidder has suffered any damages as a result of such Error.
- 21.4.4. Any Request for Clarifications should be addressed in writing only to Ms. Mirela Halfim, International Procurement Coordinator, no later than **July 1st, 2019** by e-mail, at the following address: **mirelah@rail.co.il**. Bidders shall be responsible for verifying receipt by ISR of Requests for Clarification.

22. Notices to Bidders

- 22.1. Should ISR decide, at its sole discretion, to respond to any Requests for Clarifications, such response shall be published in ISR's website (in the tender's section under the Tender's name) and, as of the date of such publication, shall constitute an integral part of the Tender Documents (each a "**Notice to Bidders**").
- 22.2. Bidders shall be solely responsible to check ISR's website on a regular basis in order to follow publications by ISR. Any Notice to Bidders published at ISR's website in

accordance with Section 22.1 shall be binding upon each Bidder, whether or not Bidder is aware of such Notice to Bidders, and Bidders shall not have any claim in connection therewith.

22.3. It is hereby clarified that only information provided by ISR to the Bidders by the way of a Notice to Bidders in accordance with Section 22.1 shall be binding upon ISR (unless expressly specified otherwise therein), and ISR shall not be bound by any oral or written response or information communicated to Bidders in any other way, including any response or information conveyed during any meeting held with the Bidders (if held).

23. Meetings, Conferences or Discussions

ISR, at its sole discretion, may arrange clarification meetings, site visits, conferences or discussions, and instruct Bidders that participation is compulsory on all Bidders wishing to submit a Bid.

Appendix A

Tender N. 41901

Technical Specifications

Appendix B
Tender N. 41901
Bidder's Proposal Form

Date: _____

**Re: Proposal for the Development, Supply, Installation, Implementation, Testing,
Qualification, Support, Warranty and Maintenance of Train Traffic Simulator for ISR's
Traffic Controllers**

Bidder declares that it has read, fully understands, and agrees to the terms and conditions included in the tender documents of Tender No. 41901, including the General Terms and Conditions, the Technical Specifications and any Appendices thereof (collectively the "**Tender Documents**"), and hereby submits to ISR (as that and all other capitalized terms not otherwise defined in this Appendix are defined in the Tender Documents) its proposal for the supply of the TTS. All of the terms and conditions included in the Tender Documents shall be considered integral parts of this proposal.

1. Any price stipulated herein shall be quoted in Euro (€) currency only. Bidder hereby acknowledges and declares that all of the sums stated herein (Appendix B) shall constitute the final price that will be paid to the Bidder for the supply of the TTS, including all of the related Services, Warranty, Qualification, Updates, Services Support Modules and spare parts obligations, equipment, cost, fees duties and taxes as specified in the Agreement.
2. The Prices shall also include all taxes, fees, duties, licenses, costs or other payments that are to be paid in connection with the exportation, supply and delivery of the TTS, including but not limited to all types of importation and custom duties and services, such as transportation costs, customs agents' fees, purchase tax (in Hebrew "Mas Kniya" or "מס קניה"), wharfage fees (in Hebrew "Dmei Ratzif" or "דמי רציף"), Israeli customs duties, port handling fees (in Hebrew "Dmei Nitul" or "דמי ניטול"), port infrastructure fees (in Hebrew "Dmei Tashtit" or "דמי תשתית"), cleaning of the containers, stuffing and unloading of the containers, cam locks for discharging the TTS at port, supervision while discharging at port, discharging terms at port, etc. Notwithstanding the above, Israeli Value Added Tax, if applicable, shall be borne by ISR. For the sake of clarity, the Prices shall include any sum which the Israeli Tax Authorities require to be withheld at source.
3. The **Proposed Price for the TTS Price (as defined in the Agreement) is as follows:**

The Proposed Price for the Purchase Order of the TTS ("TTSP")
A Sum of _____ € (in words: _____ Euros).

3.1. All prices set forth pursuant to this Section 3 shall be fixed and shall not be linked to any price increase mechanism.

4. The **Yearly Proposed Price for the Maintenance Period**, up to a period of eight (8) years, is as follows:

The Yearly Proposed Price for the Maintenance Period (“MP”)
A Sum of _____ € (in words: _____ Euros) for one (1) year of Maintenance.
The total sum for eight (8) years of Maintenance is _____ € (in words: _____ Euros).

5. The Proposed Price for Working Days (“WD”) during the agreement period (the "**Proposed Price for Working Days**") is as follows:

Price per one working day(*)					
	Duration of Task Order	Tariff of Senior Consultant services (**)(Fee)	Evaluation Coefficient	Discount Rate (DR)	Total Price (= Fee * Evaluation Coefficient) * (1-dr)
A1	10 working days or less	1050 €	45		_____ € (in words) _____ EURO.
A2	between 11 and 30 working days	1000 €	240		_____ € (in words) _____ EURO.
A3	31 working days or more	950 €	70		_____ € (in words) _____ EURO.
	Duration of Task Order	Tariff of Junior consultant services (***)(Fee)	Evaluation Coefficient	Discount Rate (DR)	Total Price (= Fee * No of working Days) * (1-dr)
B1	10 working days or less	850 €	25		_____ € (in words) _____ EURO.
B2	between 11 and 30 working days	800 €	120		_____ € (in words) _____ EURO.
B3	31 working days or more	750 €	35		_____ € (in words) _____ EURO.
	Duration of Task Order	Tariff of technicians/ Clerks services (Fee)	Evaluation Coefficient	Discount Rate (DR)	Total Price (= Fee * No of working Days) * (1-dr)
C1	10 working days or less	600 €	20		_____ € (in words) _____ EURO.
C2	between 11 and 30 working days	550 €	40		_____ € (in words) _____ EURO.
C3	31 working days or more	500 €	20		_____ € (in words) _____ EURO.
Working Days (WD) = Total Price of A1+A2+A3+B1+B2+B3+C1+C2+C3 =					_____ € (in words) _____ EURO.

Procurement & Contracting Division
6. The Proposed Price for Additional Features (AFP) is as follows:

	Additional Features	Price per unit	Quantity (for evaluation purposes only)	Total Price (Quantity multiplied by Price per Unit)
1	Development of an additional "Station Map" and sections (on top of the 20 station maps that are a part of the TTS Price)		10	
2	Update and / or changes to the station map and sections (on top of the 5 updates station maps that are a part of the TTS Price)		20	
3	Development of an additional command / button. (A new command / button added to the system after the setup period)		10	
4	Update and / or change command / button.		10	
5	Development of an additional object (A new object added to the system after the build-up period)		10	
6	Update and / or change to object.		10	
7	Development of an additional storyboard (on top of the 50 storyboards that are a part of the TTS Price)		15	
8	Update and / or change to the storyboard.		50	
9	Certifying Israel Railways simulator training staff (on top of the 5 employees)		2	
TOTAL PRICE (1+2+3+4+5+6+7+8+9)				_____€ (in words: _____ EUROS)

6.1. The Proposed Price for the Yearly Maintenance Period, Additional Features and Working Days shall be fixed and shall not be linked to any price increase mechanism for a period of two (2) years commencing on the Final Submission Date.

6.2. As from two (2) years from the Final Submission Date, the Prices shall be linked to the European Consumer Price Index (HICP E25 - Overall index, Monthly Index, (2005=100) as published at Eurostat website: <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&language=en&pcode=teicp000&tableSelection=1&plugin=1>

7. The Bidder's total evaluated price ("**TEP**") shall be calculated in accordance with the following formula:

$$\mathbf{TEP} = \mathbf{TTSP} + (8 * (\mathbf{MP} * 0.8) + (\mathbf{AFP} * 0.7) + (\mathbf{WD} * 0.6))$$

8. Bidder understands that payment by ISR to the Supplier for the TTS shall be made by way of bank transfer in the manner and terms set forth in the Agreement.

Signature of Bidder

By: (print or type name):

Title:

Appendix C
Tender No. 41901

Attached Separately

Appendix D
Tender No. 41901

Date: _____

Experience and Reference List of the Bidder

Bidder further confirms that in accordance with Section 1.2 of the Tender's General Terms and Conditions, the bidder has developed, supplied, installed and implemented, commencing from 2014 and up to the final submission date, at least two (2) TTSs that have been in commercial operation for at least one (1) year for at least two (2) different Railways Companies.

Name of company for which the TTS was manufactured and supplied	Date the TTS was manufactured and supplied	Quantity of TTS that was manufactured and supplied	Name of Contact Person	Tel. and e-mail of Contact Person

Signature of Bidder: _____

By: _____

Title: _____

(* Additional pages may be added

The Experience and Reference List shall be in English or Hebrew and shall quote the requested details.

Appendix E
Tender No. 41901
Spare Parts and Maintenance Tools List

1. SPARE PARTS LIST AND PRICES

The Bidder shall submit a list of all necessary and recommended Spare Parts required for maintenance of the TTS.

Spare Part	Original manufacturer's name and part number	Price (DAP) at Site (in EURO)	Delivery Time	Estimated annual usage

(*) Additional pages may be added

The Spare Parts List shall be in English or Hebrew and shall quote the delivery time, description, original manufacturer's name, part number of original manufacturer, estimated annual usage and the prices at ISR's Site (DAP) for each Spare Part.

Signature of Bidder: _____

Name and Title: _____

Appendix F- Technical Evaluation

<u>Technical Evaluation Points</u>			
#	Parameter	Criteria	Points
1.	<u>General Experience</u> in installation of Train Traffic Simulator for Railways Companies that are in commercial use. * please provide names and contact details of customers, in the format table of <u>Appendix D</u> . Maximum 7 points	at least 2	0
		3 - 4	3
		5 -7	5
		More than 8	7
2.	<u>Specific Experience</u> in installation of Train Traffic Simulators for Railways Companies that are in commercial use, which visualize the signaling TTS used by ISR - (SPDRL –and/or command 900) Maximum 3 points		3
	Total Points ("TP")		10

Attachment G

Appointment of the Affiliate and/or sub-contractor

* *This Attachment G shall be submitted by a Participant wishing to demonstrate compliance with some or all of the Pre-requisites through an Affiliate and/or sub-contractor of such Participant, with respect to each such Affiliate and/or sub-contractor.*

The undersigned, in accordance with the provisions of Section 2 of the General Terms and Conditions for ISR's **Tender 41901** to which this Attachment G is attached, hereby appoints _____ [name of the Affiliate and/or sub-contractor]:

- (i) to demonstrate the fulfillment of the following Pre-requisites:
_____, and
- (ii) to execute the relevant Works which are the subject matter of the Pre-requisites above, if we will be selected by ISR as the winning bidder in the Tender.

For clarification, the appointment of the Affiliate and/or sub-contractor as per the above shall not derogate from our responsibility and/or liability under the Tender with respect to any obligation imposed on Participant and/or on the winning bidder (if applicable).

This instrument of appointment may not be revoked, transferred or changed in any way without the prior written approval of ISR.

Date: _____

	Name ***	Signature of authorized signatory	Name and title of authorized signatory

We hereby agree to and accept the above appointment and undertake to comply with all of the obligations imposed on the Affiliate and/or sub-contractor under the Tender. We understand that Israel Railways Ltd. shall not have any obligations whatsoever at any time towards the Affiliate and/or sub-contractor. Our above undertakings may not be revoked, transferred or changed in any way without the prior written approval of ISR.

Date: _____

	Name of the Affiliate and/or sub-contractor	Signature of the Affiliate and/or sub-contractor's authorized signatory	Name and title

Attachment H
Non-Disclosure Undertaking

Date: _____

To: Israel Railways Ltd.
Management Building
Procurement and Contracting Department
Yoseftal 1, Lod
7136801, Israel

Non-Disclosure Undertaking

Whereas _____ ("**Bidder**") has been invited to submit a Bid to Israel Railways Ltd. ("**ISR**") in Tender No. 41901 for the Development, Supply, Installation, Implementation, Testing, Qualification, Support Warranty and Maintenance of Train Traffic Simulator for ISR's Traffic Controllers (the "**Tender**"); and

Whereas, in connection with the Tender and/or the Project, Bidder may have access and/or be exposed to, sensitive information relating *inter alia* to ISR, a state-owned entity responsible for national mass transportation, and to a major national infrastructure project with strategic and security implications;

Therefore, as a condition to the disclosure of any information by ISR, Bidder hereby undertakes and agrees as follows:

1. For the purpose of this Undertaking, "**Confidential Information**" shall mean any information of, or in connection with, ISR and/or any third party, disclosed by ISR to Bidder or that Bidder has access to or becomes aware of, in whatever form or media, whether in writing, orally, in graphic, electronic, or electromagnetic form or otherwise, prior or after the execution of this Undertaking, in connection with ISR and/or the Tender and/or the Project and/or ISR's sites and premises and/or other contractors and/or projects of ISR, including but without limitation administrative, technical, professional, financial and commercial information, track diagrams, locations of facilities, addresses, operational data and information, information regarding the content of the works and/or the services, technical descriptions, know-how, discoveries, processes, research, developments, designs, specifications, characteristics, studies, computer programs and formulae, books, software, product concepts, plans, methods, reports, recommendations, correspondence, data and information regarding quantities and/or quality and/or prices and/or pricing of raw materials, products and/or other materials and/or equipment in use by ISR, information about employees, officers, suppliers, licensors, licensees, customers, contractors and other persons and entities with whom ISR does business or has cooperative relationships or other business relationships, and any of their products or services, and all other such data and information that is otherwise disclosed or become known to Bidder and/or is

developed or produced by Bidder in connection with ISR and/or the Project.

2. Bidder undertakes not to use the Confidential Information for any purposes whatsoever except the purpose of submitting its Bid, and in the event of Bidder being the Winning Bidder, except in the performance of its obligations under the Agreement to be signed with ISR (the "**Purpose**") and not to sell, grant, make available to, or otherwise allow the use, directly or indirectly, of the Confidential Information by any third party.
3. Bidder will not disclose, publish, or disseminate Confidential Information to any third party, directly or indirectly, unless expressly authorized in writing by ISR, and Bidder agrees to take all necessary precautions to prevent any unauthorized use, disclosure, publication, or dissemination of the Confidential Information. Bidder will limit disclosure, access to and awareness, of the Confidential Information only to its Affiliates, employees, consultants and subcontractors who (i) have a need to know such Confidential Information for the Purpose; (ii) have been advised of Bidder's obligations hereunder; and (iii) have either signed a confidentiality undertaking towards ISR in a form satisfactory to ISR or are demonstrably bound to such confidentiality as a matter of law, contract or professional ethics (such Affiliates, employees, consultants and subcontractors, collectively - "**Authorized Representatives**"). Bidder shall provide ISR with a copy of such undertakings signed by the Authorized Representatives upon ISR's first request. In any event, Bidder shall remain fully responsible and liable for any act or omission by any of its Authorized Representatives in connection with the Confidential Information.
4. Bidder undertakes to immediately report to ISR any unauthorized disclosure (or suspected disclosure) of Confidential Information, and to fully cooperate with ISR in any action that will be taken by ISR in connection therewith.
5. Bidder undertakes to participate and to fully cooperate with ISR in any investigation, enquiry and proceedings conducted by ISR or on its behalf in connection with unauthorized use and/or disclosure of Confidential Information, at any time and at any place as may be requested by ISR.
6. If Bidder is required to disclose the Confidential Information or any part thereof to a tribunal or to a governmental or regulatory agency, Bidder will immediately notify ISR in writing, in order to allow ISR to obtain protective orders maintaining the confidentiality of such Confidential Information. To the extent allowed under the applicable laws, such notification shall be provided prior to such disclosure. To the extent that ISR shall not be able to prevent such disclosure, Bidder shall only disclose such part of the Confidential Information which disclosure is expressly required as per the above.
7. In the event that Bidder is not the Winning Bidder, then Bidder shall at the first request of ISR, promptly return to ISR any document or other material in any form in its possession relating to the Confidential Information and all copies thereof (or, at ISR's request, destroy them), and certify such return and/or destruction in writing to ISR.
8. ISR exclusively reserves and retains all rights it may have under copyright, patent, trade secret and other laws protecting intellectual property and proprietary rights with respect to the Confidential Information, whether these rights are or may be registered or not, and no license, assignment, transfer or similar right is granted under this Undertaking.
9. Bidder acknowledges that a breach of this Undertaking will cause ISR extensive and irreparable harm and damage, and agrees that ISR shall be entitled to injunctive relief to prevent use or disclosure of the Confidential Information, in addition to any other remedy available to ISR

under applicable law.

10. Bidder acknowledges that Section 118 of the Israeli Penal Law 5737 – 1977 applies to the provisions of this Undertaking.
11. Bidder's obligations under this Undertaking shall apply indefinitely. Bidder shall be responsible towards ISR for all losses, damages, or harm of any kind caused to ISR or anyone acting on behalf of ISR, due to breach of this Undertaking by Bidder and/or any Authorized Representative.
12. This Undertaking shall be governed by and construed in accordance with the laws of the State of Israel, excluding its choice of law and conflicts of law rules, and the competent courts in Tel-Aviv, Israel, shall have sole and exclusive jurisdiction over every dispute arising from, or in connection with this Undertaking. However, ISR shall be entitled to seek remedies through the competent courts of any jurisdiction in order to protect its rights under this Undertaking. If any provision of this Undertaking is invalid or unenforceable, the remainder of this Undertaking shall remain in full force and effect.

IN WITNESS WHEREOF, Bidder has signed and executed this Undertaking as of the date first written above.

BIDDER: _____

By: _____

Title: _____