

Agreement No. _____

Entered and signed this _____ day of _____ 2021
(the “**Effective Date**”)

between

Israel Railways Ltd.
Company No. 52-004361-3

3 Darchei Moshe St.
Lod 7136801, ISRAEL

(the “**ISR**”)

Of the First Part

and

(the “**Supplier**”)

Of the Second Part

ISR and Supplier collectively will hereinafter be referred to as the “**Parties**”.

WHEREAS, ISR is interested in acquiring 15 Second Hand Ballast Bogie Hopper Wagons (the “**Wagons**” as defined in Section 3 hereunder), all in accordance with and subject to the terms and provisions of this Agreement; and

WHEREAS, ISR has published Tender No. 42005 (the “**Tender**”), for selecting the Supplier who shall supply the Wagons and the will perform the Works, as defined below; and

WHEREAS, Supplier submitted a proposal in the Tender which was selected by ISR; 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 to undertake the obligations set forth in this Agreement herein; and

WHEREAS, the Parties desire to set forth a contractual framework to determine the Parties’ relationship and obligations with regards to the general repair and supply of the Wagons as aforesaid.

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 and are not a material part of and shall not be used in interpreting this Agreement.
- 1.2 The Agreement shall consist of the following documents each of which is attached hereto and is an integral and inseparable part hereof:
 - 1.1.1 The general terms and conditions of the Agreement
 - 1.1.2 The following appendices:
 - 1.1.2.1 *Annex A* – Technical Specifications
 - 1.1.2.2 *Annex B* – Consideration
 - 1.1.2.3 *Annex C* – Form of Supplier's Bank Details
 - 1.1.2.4 *Annex D* – Form of Performance and Warranty Guarantee
 - 1.1.2.5 *Annex E* – Form of Payment Guarantee
 - 1.1.2.6 *Annex F* – Spare Parts List
 - 1.1.2.7 *Annex G* – Form of completion Foreign Acceptance Tests
 - 1.1.2.8 *Annex H* – Form of Final Acceptance Certificate
 - 1.1.2.9 *Annex I* – Change Order form
 - 1.1.2.10 *Annex J* – Inspection and test plan
 - 1.1.2.11 *Annex K* - The Wagons purchased as detailed by serial number.
 - 1.1.2.12 *Annex L* – Documentation (drawings, operation and maintenance instructions, all documents evidencing refurbishments activities and certificate of materials test and inspections/test reports, painting and anti-corrosion instructions) per Wagon.

2. PRIORITY OF DOCUMENTS

- 2.1 Unless otherwise provided in this Agreement, the several documents forming this Agreement, are to be taken as mutually explanatory of one another and shall be deemed to form one agreement, and should, therefore, be read and construed together.
- 2.2 In the event of any discrepancy, conflict, inconsistency, ambiguity and/or uncertainty between the provisions of the following documents (including any instructions or data contained therein), the following order of precedence will 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 Appendix B to the Tender);
 - Supplier's Proposal to the Tender.
- 2.3 In case of any discrepancy, conflict, inconsistency, ambiguity and/or uncertainty as to the interpretation of any provision contained in the documents set forth in Section 2.2 above and/or the order of precedence between the various provisions contained in these documents, 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 and absolute discretion, shall apply.
- 2.4 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 3. Whenever required by the context of this Agreement, the singular shall include the plural, the masculine shall include the feminine and vice versa.

3. DEFENITIONS

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

- 3.1. "**Applicable Law**" means any Israeli or foreign statute, law, ordinance, rule, regulation, order, writ, injunction, judgment, decree or other requirement of any governmental entity existing as of the date hereof or at any time during the term of this Agreement applicable to ISR, Supplier and/or the Works.
- 3.2. "**Acceptance**" - shall mean ISR's issuance of a signed Final Acceptance Certificate in the form attached hereto as Annex H, following delivery of the Wagons to the Site in accordance with the Delivery Terms, in accordance with the ITP.
- 3.3. "**Business Days**" - any day of the week other than Friday and Saturday and excluding official holidays and bank holidays in Israel.
- 3.4. "**DAP**" – "Delivery at Place" DAP (as that term is defined in Incoterms 2020, International Rules for the Interpretation of Trade, ICC Publication No. 715) at the Site.
- 3.5. "**IPM**" – ISR's Project Manager.
- 3.6. "**ITP**" – the inspection and test plan as specified in Annex J and all additional inspections and tests required to determine that the Wagons has undergone general repair and supplied in accordance with the Technical Specifications and all other relevant terms in this Agreement.
- 3.7. "**Purchase Order**" - an order made pursuant to the provisions of this Agreement.
- 3.8. "**Site**" - ISR's facilities located at Kishon Workshop in Haifa Bay, Israel.
- 3.9. "**Wagons**" – shall mean Wagons detailed in Annex K which complies with the Technical Specifications, attached herein as Annex A:
- 3.10. "**Resolution Time**" the time from the report of a malfunction and until it was rectified
- 3.11. "**Response Time**" - the time within which Supplier begins to handle a reported malfunction;
- 3.12. "**Suspending Condition**" – as detailed in Section 5.11.
- 3.13. "**Severe Malfunction**" - an event whereby due to a severe malfunction a Wagon is not suitable for commercial service for any type of containerized freight transport (including without derogating from the generality of the aforementioned hazardous materials)

according to ISR's sole and absolute discretion.

- 3.14. "**Works**" – shall mean all works, components, materials and equipment to be executed or supplied by Supplier, directly or indirectly, in connection with the general repair, tests, and warranty of the Wagons 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, machinery, tools, spare parts, accessories, components and other implements of every kind and description, all in accordance with this Agreement.

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. **No lien and/or third party's rights** – The Supplier is the sole owner of all rights in the Wagons and the Wagons are free of any lien, charge, collateral, claims and counter-complaints of any third party and there is no impediment under any law and/or agreement to execute this Agreement.
- 4.5. **Supplier Examination and Evaluation.**
- Supplier hereby represents and warrants to ISR that:
- 4.5.1. Supplier has examined all documents pertaining to this Agreement and is satisfied with regard to the data, specifications, terms and conditions under which the Wagons shall be repaired, tested, supplied and delivered to ISR, the execution of the Works required for the provision of the Wagons as well for the fulfillment for any and all

obligations under this Agreement;

- 4.5.2. 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;
- 4.5.3. Supplier has examined and is fully satisfied with all of the information provided to it by ISR, including ISR's rules and procedures;
- 4.5.4. 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 any grounds whatsoever, including, without limitation, on the grounds of any misunderstanding or misapprehension in respect of any matter which a expert supplier of refurbished/second hand Wagons 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 expert supplier of refurbished/second hand Wagons, 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.
- 4.5.5. Supplier is well aware of all of the relevant parameters affecting the Works, including but not limited to loading gauge, climate conditions, station platform dimensions, and all technical conditions as specified in the Technical Specifications.
- 4.5.6. Supplier warrants that the Wagons will operate in accordance with the Technical Specifications on ISR's network.
- 4.6. **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).
- 4.7. **Discrepancies and Omissions**
 - 4.7.1. Supplier represents that wherever there is a discrepancy between the Technical Specifications, Supplier's proposal to the Tender 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. 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 regards to an omission involves matters of price or terms of payment or timetable, such matters shall be settled by mutual agreement in writing in accordance with the provisions of Section 15 herein (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. In the event that ISR requests Supplier to perform Works that are not part of the Works under this Agreement, Parties shall discuss in good faith the price of adjustment.

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, which shall not be unreasonably withheld, 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, general repair (at all phases), plans, tests, or otherwise.

4.9. **Independent Contractor.** Supplier is an independent contractor acting on its own risk and account and solely responsible for its own financial obligations, and nothing contained in this Agreement will 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 general repair and provision of the Wagons in accordance with the terms and the conditions of this Agreement, including, inter alia, the general repair, testing, supply, installation, 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, in addition to those specified in the Technical Specifications and Supplier's proposal to the Tender . In any conflict or inconsistency between the instructions or any data contained in Technical Specifications and Supplier's proposal to the Tender the terms and conditions more favorable to ISR shall take priority. In case of controversy, ISR shall have the final decision what is favorable to ISR.
- 5.2. **"Turn Key Basis".** The Wagons shall be general repaired and 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 Wagons ; this shall include, without limitation, testing, running in, demonstration and commissioning of the Wagons and any other tasks or duties relating to the above – all as shall be required in order to timely deliver an operable, safe, efficient and reliable Wagons suitable for commercial service for any type of containerized freight transport (including without derogating from the generality of the aforementioned hazardous materials) and putting same into full operation in accordance with all of the requirements of this Agreement.
- 5.3. **Conformity of the Wagons.** The provision of the Wagons 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 if this Agreement must be approved in writing in advance by ISR.
- 5.4. **Standards.** The Works and the Wagons shall meet the standards set forth by ISR in the Technical Specifications , and if no standard is expressly mentioned, the 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.
- 5.5. **Permits.** The 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 Wagons and the provision of all ancillary services, pursuant to this Agreement
- 5.6. **Safety.** All Works at ISR's sites of Supplier 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.

- 5.7. **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 Wagons and any other equipment and/or infrastructure of ISR.
- 5.8. **Personnel.** The Supplier shall employ trained skilled employees and consultants as shall be necessary or appropriate to enable Supplier to general repair and supply the Wagons and the Warranty including the execution of the Works. The 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 the 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 the Supplier and the Supplier shall comply with Applicable Law 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 the 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. The above shall be conditioned upon: 1) ISR providing the Supplier with prompt written notice 2) ISR shall cooperate reasonably with Supplier 3) ISR shall not enter into a settlement agreement without Supplier's written consent that shall not be unreasonably withheld.
- 5.9. **Environmental Standards.** The Wagons and/or the Works shall meet the applicable environmental standards in accordance with Israeli law and regulation and in the absence of an applicable Israeli law the relevant EU standard shall apply. However, in any event of any discrepancy between the provisions of the Israeli law and any E.U. standard, the provisions of the Israeli law shall prevail.
- 5.10. **Quality Management System.** The Supplier hereby undertakes, warrants and confirms to remain certified in accordance with ISO 9001: 2008 standards or equivalent, and the Supplier shall at any time during the term of Agreement be willing to prove such claim to be true. In any event, the 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 the Supplier and/or any of its Subcontractors.

5.11. Suspending Conditions

The Parties hereby agree and undertake that this Agreement shall not enter into effect before Parties shall agree on the specific Wagons to be supplied to ISR and sign Appendix K to this Agreement detailing such Wagons (hereinafter: the Suspending Condition). In order to fulfill the Suspending Condition IPM shall meet Supplier's representative in Repair Site at the time determined by ISR after consultation with Supplier in order to reach an agreement on the wagons that will be detailed in Appendix K. In the event that within 60 (sixty) days from Effective Date Appendix K will not be completed and signed by both parties this Agreement shall be null and void, unless such period is extended by ISR after consultation with Supplier.

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 Wagons 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 Wagons 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, 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 **Repair Site.** Supplier hereby undertakes that the place of repair site of the Wagons shall be _____ [Note: to be approved by ISR] ("**Repair Site**"). Any change in Supplier's Repair Site 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 Repair Site proposed by Supplier and ISR and shall be entitled to approve or to reject any such proposed Repair Site and tests at its sole discretion. Without derogating from the generality of the above, the standards in any new Repair Site and tests proposed by Supplier shall not be inferior to the standards in the place of Repair Site 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 the Repair Site 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. PURCHASE AND SALE

- 7.1. ISR shall issue, at its sole discretion, a Purchase Order for 15 Wagons within three (3) months of the Effective Date providing the Suspending Condition is fulfilled.
- 7.2. During the Agreement Period, ISR in its sole discretion shall have the option to purchase from the Supplier additional Wagons(s) (the "Optional Wagon(s)"). Supplier may reject such request only in the event that Supplier does not have in its possession available Wagons. The Supplier hereby agrees to sell and deliver the Optional Wagons to ISR subject to the terms and conditions set forth in this Agreement.
- 7.3. 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 wagons and/or Optional Wagons from the Supplier.

8. AGREEMENT PERIOD

8.1. The Agreement shall commence on the Effective Date and shall continue in full force and effect until the later of (i) two (2) years from the Effective Date; and (ii) the end of the Warranty Period, all without derogating from any other term stated in the Agreement (the "Agreement Period").

9. ORDER PROCEDURE

9.1. ISR, through the contact person listed in Section 8.2 hereinafter, may issue to Supplier, from time to time, a Purchase Order for the Wagons. The Purchase Order shall specify the Wagons ordered, the Consideration and payment schedule and the Delivery Time, as defined in the Agreement below.

9.2. 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. _____
Manager of the _____
Israel Railways Ltd.
Address:
Telephone:
Facsimile:
E-mail:

For the Supplier: _____

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

9.3. ISR shall forward a Purchase Order to Supplier via facsimile to the contact person of the Supplier a copy of which shall be sent via air mail.

9.4. Upon receipt of a Purchase Order by facsimile, Supplier shall confirm via facsimile receipt of the Purchase Order to ISR's contact person. A copy of such confirmation shall be sent to ISR via air mail.

10. DOCUMENTS TO BE SUPPLIED

The following original documents will be supplied by Supplier to ISR:

10.1.1. Commercial invoices. The invoice/s shall include a clear reference to this Agreement, the amount, part number (inclusive of serial number), if any, quantity,

delivery note number, shipping date, Supplier's company registration number and ISR's order number for the Wagons ;

10.1.2. Bill of Lading - issued in ISR's name;

10.1.3. Packing Lists;

10.1.4. Any and all other documentation necessary to release the Wagons from customs in an expeditious manner and to facilitate payment, *i.e.* the documents that will enable ISR to clear the Wagons through customs and which will enable ISR to make payment in foreign currency in accordance with the Regulations of the Bank of Israel.

10.2. Without derogating from the above, Supplier shall provide ISR with all documents detailed in Annex L per Wagon and Wagon type conformation issued by an official authority for the Wagon and it warrants that all documents are true and complete.

10.3. Original copies of all of the above mentioned documents **must arrive** at ISR's Purchasing Department at least **five (5) calendar days before** the arrival of the ship delivering of any Wagons to Israel. In addition, Copies of all of the above mentioned documents shall be sent to ISR by facsimile simultaneously with the delivery of the originals. The above mentioned documents **must** be forwarded solely in ISR's name and shall state ISR's exact name.

11. PRICE

11.1. The price for the general repair and supply of the Wagons including all Works and equipment as required for the delivery, testing or as otherwise required for fulfillment of the Supplier's obligations under this Agreement in accordance with the terms and conditions of this Agreement, to be paid by ISR to Supplier shall be as set forth in Annex B (collectively hereinafter referred to as: the "**Wagons Price**").

11.2. The Wagons Price shall be the final, complete and inclusive price that will be paid to Supplier for the general repair, supply and delivery of the Wagons and the ancillary services to be provided by it under this Agreement.

11.3. Notwithstanding the DAP, All taxes, fees, duties, licenses, costs or other payments that are to be paid in connection with the export, supply and delivery of the Wagons, 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 הקניה"), 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, un/stuffing and un/loading of the containers, cam locks for discharging the Wagons at port, supervision while discharging at port, discharging terms at port, etc. shall be considered as part of the Initial Purchase Order Wagon Price, as applicable, and shall be borne solely by Supplier. Notwithstanding the above, Israeli Value Added Tax, if applicable, shall be borne by ISR.

11.4. Notwithstanding Section 11.3, ISR shall be required to pay, if applicable, the VAT (and only the VAT) imposed by the Israeli Tax Authorities on the Wagons.

11.5. The Wagons Price includes any sum which the Israeli Tax Authorities require to be

withheld at source, if applicable. The amounts required by the Applicable Law to be withheld at source by the Israeli Tax Authorities shall be paid by ISR directly to the Israeli Tax Authorities and shall be deducted from Wagons Price.

- 11.6. All prices set forth in **Annex B** shall be fixed and shall not be linked to any price increase mechanism.
- 11.7. For the removal of doubt, income taxes, if any, imposed on Supplier and/or any of its employees shall be borne and payable solely by Supplier or its employees, as applicable.
- 11.8. All payments to Supplier will be made in EURO, all in accordance with the provisions of the Consideration Annex.

12. TERMS OF PAYMENT

Payment by ISR to Supplier shall be made on a *per-order* basis and shall be made as follows:

- 12.1. A payment of Twenty (20%) percent of the applicable Wagons Price shall be paid to Supplier within sixty (60) calendar days following successful completion of the Foreign Acceptance Test (the “**First Payment**”), provided that Supplier has provided ISR at least forty-five (45) calendar days prior to the payment with all the following:

12.1.1. An invoice in the amount of the First Payment; and

12.1.2. A payment guarantee issued in the form set forth in **Annex E** of the Agreement, approved in advance by ISR, in the amount of the First Payment (the “**First Payment Guarantee**”). The First Payment Guarantee shall remain in force until thirty (30) calendar days following the issuance of a Final Acceptance Certificate by ISR;

Notwithstanding the above, the First payment shall not be executed until Supplier receives a Form of Competition of Foreign Acceptance Tests for the Wagons, issued and signed by the Supplier in the form attached hereto as **Annex G** and countersigned by ISR's project manager even if the 60 (sixty) days period has elapsed and Supplier fulfilled the conditions detailed above.

- 12.2. The remaining balance of eighty percent (80%) percent of the applicable Wagons Price shall be paid within sixty (60) days following the Acceptance Date, provided that Supplier has provided ISR at least forty-five (45) calendar days prior to the payment with all the following:

12.2.1. An invoice in the amount of the Balance Payment; and

12.2.2. The Final Acceptance Certificate, in the form attached hereto as **Annex H**, signed by ISR, as set forth in Section 17 מתחת.

- 12.3. Payments under this Agreement shall be made to the Supplier by means of bank transfer to the Supplier's bank account as specified in the form attached herein as **Annex C**.

13. DELIVERY TERMS AND DELIVERY TIME

- 13.1. The terms of supply and delivery of the Wagons shall be DAP at ISR's Site (the "**Delivery Terms**"), subject to Section 12.2.
- 13.2. The Delivery Time of Wagons shall be at Site (DAP) no later than six (6) months following the issuance of a Purchase Order :(the "**Delivery Time**")
- 13.3. Without derogating from the DAP conditions above (including but not limited to liability), the transportation of the Wagons from the Israeli port to ISR's Site shall be carried out by ISR on its expense.
- 13.4. If the Delivery Time of any Wagon is delayed by more than fifteen (15) weeks after the scheduled date of Delivery Time above, then ISR shall be entitled (but not obligated) to cancel the relevant Purchase Order with regard to such specific delayed Wagon(s). In such case, Supplier shall forthwith refund to ISR all payments previously paid by ISR to Supplier with respect to such Wagon(s). In addition, Liquidated Damages for Late Delivery shall be due by Supplier until the date of cancellation of the Purchase Order with respect to the delayed Wagon(s).

13.5. **Passage of Title**

- 13.5.1. The ownership and title to the Wagons and any part thereof, including 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 of issuance by ISR of the Final 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.
- 13.5.2. ISR shall bear no responsibility for any works performed or materials, components or equipment used by Supplier 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 Final Acceptance. Supplier shall be solely responsible to protect completely and preserve entirely the Wagons and any related Works, components, material and equipment until the Final Acceptance thereof.
- 13.5.3. It is hereby stated by the Supplier and mutually understood by the parties, that notwithstanding the Delivery Time, the Supplier shall make its best efforts, in order to shorten the Delivery Time, as much as possible.

14. LIQUIDATED DAMAGES

- 14.1. In the event that delivery time of the Wagons or any of them shall be delayed beyond the time specified in the Delivery Time for reasons not caused solely by ISR, the Supplier shall pay ISR agreed liquidated damages at the rate of one-half percent (0.5%) of the price of the delayed Wagon(s), for each week (or part of a week) of delay in Final Acceptance (the "Liquidated Damages for late delivery"), provided that the aggregate amount of Liquidated Damages For Late Delivery shall not exceed a total of seven and half percent (7.5%) of the Wagon(s) price for all the delayed Wagons.
- 14.2. For a period of up to fifteen (15) weeks after the scheduled date of Delivery Time, the Liquidated Damages for late delivery and the rejection for excessive delay shall be the sole and exclusive remedy available to ISR. Thereafter, ISR shall be entitled to any other

relief or remedy available under the Agreement or by law, in addition to the total sum of Liquidated Damages due as per the above, including with respect to said fifteen (15) weeks.

15. CONFORMITY OF WAGONS

- 15.1. The Wagons must be delivered in strict conformity with the Technical Specifications detailed in **Annex A** and in a condition equivalent to a wagon following the successful completion of a general repair/refurbishment work for commercial service for any type of containerized freight transport (including without derogating from the generality of the aforementioned hazardous materials) (the “**Technical Specifications**”). Any deviation from the Technical Specifications must be approved in advance by ISR.
- 15.2. Without derogating from the aforesaid, ISR shall, at any time, have the right to appoint its own inspector or require the examination of the Wagons at the Supplier’s premises in order to ensure that the Wagons is general repaired and supplied in accordance with the Technical Specifications. Supplier shall provide ISR with a 30 days prior written notice before the commencement of the Works. Failure on behalf of ISR's representative to be present shall not delay commencement of the Works.

16. ALTERATION OF TECHNICAL SPECIFICATIONS

- 16.1. ISR reserves the right to alter the Technical Specifications (“**Changes**”). The Supplier shall be notified of the alterations in writing by ISR's project manager (“**Change Order**”). Any Change Order shall specify a date following which the Wagons (s) shall be constructed and delivered in accordance with the amended Specifications.
- 16.2. Within ten (10) Days from receipt of a Change Order, the Supplier shall provide ISR with a written confirmation and if applicable, shall state requested changes to the Wagons Purchase Price, Delivery Time, and any other terms relevant to the provision thereof.
- 16.3. The price for any Changes included in the Change Order which is a supplement or addition of parts or systems used elsewhere in the Wagons or which are included in the Spare Parts list, shall be no higher than the price applied to such systems or parts therein.
- 16.4. Following receipt of the Supplier's request for Changes as detailed in Section 15.2, the parties shall, in good faith, review the Changes and any changes to the Wagons Price and Delivery Time requested by the Supplier.
- 16.5. The Changes will be incorporated in the Wagons, only after and to the extent that the Parties are agreed as to their impact on the Wagons Price and Delivery Time. Such agreement shall be set out in writing, in a "Change Order", in a form set out in **Annex I** and shall be signed by both parties.
- 16.6. Should the Supplier find at any time during the general repair of the Wagons 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, at the sole discretion of ISR's project manager.
- 16.7. In the event that the Supplier objects to any Change Order or any part thereof, on the grounds that it may affect safety or structural soundness of the Wagons , and

notwithstanding said objection, ISR's project manager provides the Supplier with a written order to proceed with the Changes, the Supplier shall proceed to amend the Wagons as required, and in any event shall not be relieved of any obligation or liability arising from poor or faulty workmanship, negligence, errors, omissions etc. Supplier shall not proceed with any Change that adversely affects safety and/or structural soundness and/or is not in accordance to the Applicable Law.

16.8. In the event that the Wagons Price is altered due to Changes, as detailed above, the altered Wagons Price shall be paid in accordance with the payment terms set out in the Agreement.

17. TESTING AND ACCEPTANCE TESTS

17.1. Within thirty (30) days following the Purchase Order Date, Supplier shall submit to ISR, for its approval, an Inspection and Test Plan for the Wagons (the "ITP"). The ITP shall include a description of all inspections and tests to be carried out during the production and assembly of the Wagons or parts thereof and all inspections and tests to be carried out prior to and during the actual acceptance tests and their respective minimum acceptance criteria.

17.2. ISR shall be entitled to participate in all such acceptance tests and shall be given advance notice of at least 30 days. The Supplier shall be responsible for all equipment and resources and expenses with regards to the acceptance tests, excluding flights, room and board for ISR's representative, at its expense. Failure on behalf of ISR's representative to be present during Acceptance Tests will not delay the Works by Supplier.

17.3. Upon the completion of the general repair the Supplier shall conduct all the relevant tests and inspections of the Wagons in accordance with the ITP and the Technical Specifications. ISR shall be notified of completion of assembly of the Wagons prior to commencement of the tests.

17.4. Upon completion of said acceptance tests, the Supplier shall prepare for ISR's signature Foreign Tests Acceptance Certificate in the form attached as **Annex G** attesting that the Wagons is in full compliance with all of the terms and requirements of this Agreement including the Technical Specifications and the ITP (the "**Foreign Acceptance Certificate**");

17.5. The Wagons or any part thereof, shall not be sent to any port for shipment to Israel and shall not be shipped to Israel prior to ISR issuance of the signed Foreign Tests Acceptance Certificate. Subject to successful completion of the ITP, ISR will issue a signed Acceptance Certificate within 5 (five) days following the successful completion of said tests as approved by ISR at its sole discretion.

17.6. Upon delivery DAP of the Wagons to the Site Supplier will perform the tasks required to bring the Wagons to commercial operation as detailed in the Technical Specifications and in this Agreement. Without derogating from the above, Supplier shall provide ISR installation services and operational testing in accordance with the ITP.

17.7. Upon the completion of the testing to ISR's full satisfaction, ISR shall issue a signed Final Acceptance Certificate, in the form attached hereto as **Annex H**, declaring that the Wagons is suitable for commercial operation in accordance with the ITP and the terms

of this Agreement (the "**Final Acceptance Certificate**").

17.8. Upon successful completion of the Wagons Acceptance Tests as set out in the ITP, ISR and Supplier shall complete and sign a Wagons Acceptance Certificate, in the form attached hereto **Annex H**, declaring that the Wagons is fully operational in accordance with the terms of this Agreement.

17.9. Upon successful completion of the testing, ISR and Supplier shall complete and sign a Final Acceptance Certificate, in the form attached hereto **Annex H**, declaring that the Wagons is fully operational in ISR's Site.

18. **WARRANTY**

18.1. Supplier confirms and warrants to ISR that commencing on the issuance date of the Final Acceptance Certificate for each Wagon and for a period of twelve (12) months thereof (the "**Warranty Period**"), the Wagons, and any part thereof (including software and hardware components as well as any materials, system embedded in the Wagons), 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 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.). Supplier further confirms and warrants that, as an integral part of the Warranty Period, the Supplier shall provide ISR, without any additional charge or cost, with preventive, corrective and emergency maintenance services for the Wagons and any part thereof, which services shall include, inter alia, support, labor, calibrations, support and examination of the Wagons, repairs (including repairs required due to wear and tear), replacements, spare parts, updates, troubleshooting and correction of bugs, as well as all applicable manufacturer specifications in order to assure that the Wagons and any part thereof, shall operate and perform to the maximum extent of their capabilities.

18.2. Without derogating from the above, for any fault or defect attributed to the Wagons within the Warranty Period, the Supplier shall, at his own expense and without delay, immediately repair and/or replace the ascertained defects and/or faults, and/or damages and/or components to the satisfaction of ISR, or send a replacement supply to ISR and pay for any and all costs related to such repair or replacement, including, but not limited to, special tools, equipment, costs related to transportation, dismounting and mounting, etc.

18.3. 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:

18.3.1. In case of a Severe Malfunction, Supplier shall be obligated to repair such Severe Malfunction without any additional cost or charge to be borne by ISR within thirty (30) days following the receipt of a notice specifying the Wagon and the Severe Malfunction report ("**Severe Malfunction Notice**").

18.3.2. Supplier is obligated to provide detailed report specifying schedule and proposed solution for the repair of such Severe Malfunction, provided however that the Response Time shall not exceed seven (7) days following the receipt of the

Severe Malfunction Notice

- 18.3.3. In case of any other malfunctions, the Response Time shall not exceed twenty four (24) hours and the Resolution Time shall not exceed thirty (30) Business Days from the report of the problem.
 - 18.3.4. If three (3) days from the Resolution Time for a Severe Malfunction have elapsed without a solution having been found or, if seven (7) days from the Resolution Time for any other malfunction have elapsed without a solution being found, ISR may demand the personal and uninterrupted presence of professional representatives of the Supplier in Site, having the appropriate skills and in the relevant number as the case may be, at no additional charge ("**Presence on Site**").
 - 18.3.5. Treatment of any malfunction shall be continuous until the solution is found, i.e. until the malfunction is repaired or until a reasonable way is found to circumvent it. The report by ISR's representative as to the malfunction shall include the categorization of the malfunction (whether severe or not) according to his discretion. A solution which is circumvented shall not absolve the Supplier of its duty to repair the malfunction or be considered a solution to the malfunction for any respect.
 - 18.3.6. For the removal of doubt, the liquidated damages as herein provided shall not derogate from any other rights or remedies available to ISR under any Applicable Law or under this Agreement.
 - 18.3.7. For the removal of doubt, ISR may recover any sums due to ISR with regard to such liquidated damages from the guarantee provided by the Supplier or by set off from any consideration under this Agreement.
- 18.4. All necessary repairs and/or replacement works required to be performed during the Warranty Period, shall be performed by Supplier or by representatives of the Supplier only, subject to prior written approval of ISR.

19. PERFORMANCE AND WARRANTY GUARANTY

- 19.1. To secure the punctual, complete and entire performance of all of Supplier's obligations under this Agreement, Supplier will furnish to Performance and Warranty Guarantee, and Payment Guarantee, (collectively, the "Guarantees"), all as specified in this Section 18 below. All Guarantees shall be issued by a first class bank approved in advance by ISR.
- 19.2. Performance and Warranty Guarantee, no later than seven (7) Business Days following the Purchase Order, the Supplier shall furnish ISR with an irrevocable autonomous Performance and Warranty Guarantee issued in the form attached hereto as **Annex D** in the amount equal to ten percent (10%) of the Wagons Price, valid until one (1) month following the end of the Warranty Period.
- 19.3. Payment Guarantee. Before ISR effects the First Payment as detailed in Section 11.1 above, and as a condition thereto, the Supplier shall furnish ISR with a bank guarantee in the full amount of the payment then due (the "Payment Guarantee").

- 19.4. The Payment Guarantee (*to the extent not collected*) will be in force until, and will be returned to the Supplier within sixty (60) days after, and subject to, the Final Acceptance of the Wagons.
- 19.5. The 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 19.
- 19.6. Each Guarantee shall be in the relevant form for such Guarantee attached hereto as **Annex D** or **Annex E** and shall be denominated in Euros only. All such Guarantees shall be unconditional and irrevocable bank guarantees, issued by a first-class bank 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.
- 19.7. 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.
- 19.8. The 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 the 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.
- 19.9. Collection on a Guarantee or any part thereof by ISR shall not derogate from the right of ISR to terminate this Agreement, nor from its right to any remedy that may be available to it under any Applicable Law and/or agreement or relieve the Supplier of any of its liabilities and undertakings under this Agreement, including its liability to indemnify ISR.

20. SPARE PARTS

- 20.1. The Supplier shall undertake that during a period of ten (10) years commencing on the date of issuance of the Final Acceptance Certificate for the Wagons, it will supply ISR with all spare parts and tools necessary and recommended for the maintenance and for the repair of the Wagons as set forth in the **Annex F** attached herein, including the separate elements of the Wagons (s) (the “**Spare Parts**”).
- 20.2. The price for the supply (DAP) of Spare Parts (“**Spare Parts Price**”) shall be as set forth in the attached **Annex F**. The Spare Parts Price shall be in English or Hebrew and shall quote the delivery time, description, original manufacturer's name, part number of original manufacturer and the prices DAP ISR's Site for each Spare Part, as set forth in **Annex F**, which shall remain fixed for a period of one (1) year from the Effective Date.
- 20.3. The terms of delivery of the Wagons as specified in this Agreement, shall apply, *mutatis mutandis*, to the terms of delivery of the Spare Parts.
- 20.4. The payment for Spare Parts shall be made on a *per-order* basis and shall be made within sixty (60) calendar days following the acceptance of the Spare Parts by ISR, subject to

receipt by ISR with all of the necessary documentation from the Supplier, as specified in Section 10 above at least thirty (30) calendar days prior to the date scheduled for the payment.

- 20.5. If Supplier foresees that it will be unable to 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 on its behalf.
- 20.6. Notwithstanding the undertaking of the Supplier to sell ISR the necessary Spare Parts for a period of ten (10) years, ISR shall be under no obligation whatsoever to acquire any Spare Parts from the Supplier. ISR, in its sole discretion, shall decide if, and when, it will acquire the Spare Parts from the Supplier during the relevant time period.
- 20.7. This Section shall survive termination of this Agreement, for any reason and shall continue to apply as long as ISR is making use of the Wagons.

21. TERMINATION

- 21.1. During the Agreement Period ISR has the right to terminate this Agreement, at its sole discretion, for any reason, including for convenience by providing the Supplier with three (3) months written notice of such termination and without the need for ISR to give any reason therefore. Such termination shall be effective three (3) months after the date such notice has been provided to the Supplier ("**Termination Date**"). All terms and conditions of this Agreement will remain in full force until the Termination Date.
- 21.2. ISR has the right to immediately terminate this Agreement, at its sole discretion, by providing written notice to the Supplier upon the occurrence of one of the following events to or in connection with the Supplier:
 - 21.2.1. Voluntary or involuntary bankruptcy (liquidation or reorganization), or receivership or commencement of a similar insolvency proceeding;
 - 21.2.2. Cessation of business operations;
 - 21.2.3. Election to dissolve or wind-up business;
 - 21.2.4. The Supplier breaches any provision of this Agreement and fails to cure such breach within thirty (30) days from the date of ISR's notice.
- 21.3. This Agreement may be immediately terminated by ISR, by a written notice, if the Supplier is in breach of its obligations under this Agreement and has not cured such breach, within thirty (30) days after ISR has advised the Supplier in writing as to the existence of such breach ("**Material Breach**"). Material Breach shall include, inter alia:
 - 21.3.1. The Supplier's failure to obtain a Certificate of Final Acceptance for reasons not caused solely by ISR, within thirty (30) days from the date scheduled for Delivery of the Wagons .
 - 21.3.2. Breach of any of the representations and/or warranties set out in preface to this Agreement, which was not cured by Supplier within thirty (30) days after ISR advised the Supplier in writing as to the existence of such breach.
- 21.4. If ISR so directs, all Purchase Orders issued before the Termination Date will be honored

by the Supplier in full. In the event ISR elects not to pursue with the already issued Purchase Orders, Supplier shall not be entitled to any remuneration.

- 21.5. Notwithstanding the above, in the event that ISR shall exercise its right pursuant to Section 21.1, Supplier shall be reimbursed only for the direct actual expenses of the Works already incurred in the time of the termination notice as specified below:
 - 21.5.1. Within fourteen (14) days following the receipt of the termination notice pursuant to section 21.1, Supplier shall provide ISR a detailed list specifying all of Supplier's direct expenses of the Works which have been incurred by Supplier in the time of the termination notice ("**Costs Incurred**"). In addition Supplier shall provide the following documentation to prove any and all Costs Incurred such as invoices, labor hours, technical tests results etc.) ("**Suppliers Request for Cost Incurred**").
 - 21.5.2. ISR shall review Supplier's request for Cost Incurred and shall approve at its sole discretion the Costs Incurred. Supplier shall be entitled to receive a final and complete compensation of 115% of the Costs Incurred pursuant to Section 21.1.
- 21.6. 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 21.2-21.3, then within thirty (30) days from notification by ISR that it has rescinded or terminated this Agreement, prior to the issuance of Final Acceptance Certificate, Supplier shall return to ISR all payments it has received from ISR in respect of all terminated works.
- 21.7. Payment to the 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 of whatever kind and nature (including but without limitation in the form of reimbursement of expenses and/or compensation 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.
- 21.8. Subject to Section 21.5, 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.
- 21.9. Termination of this Agreement for whatever reason shall be without prejudice to the rights of the Parties accrued under this Agreement up to the time of termination.
- 21.10. The provisions of this Agreement which expressly or by their nature are required to survive termination of this Agreement, such as Sections 4, 15, 16, 18, 20, 21, 22 shall survive the expiration or termination of this Agreement.

22. RISKS AND LIABILITIES

22.1. 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):

22.1.1. All Works including but without limitation, their assembly, integration, adjustment, tests and trials of the Wagons (and/or any part thereof), as well as the Warranty Period;

22.1.2. The use of the Wagons and/or any part thereof, when the Damages arise from faulty design (including errors and omissions in design) or workmanship;

22.1.3. Any damage to property, death or injury to persons, arising out of, or in connection with, the Wagons or the all Works;

22.1.4. Supplier's breach of any term or provision of this Agreement or any Applicable Law;

22.1.5. Any claims against ISR made by any Subcontractor arising from, or in connection with, all Works to be performed by the Subcontractor, including but without limitation any payments related to all works provided by supplier or any part thereof to any Subcontractor;

22.1.6. Any negligent or willful act, error or omission by Supplier, its employees, agents, representatives and Subcontractors, in the performance of this Agreement ;

22.1.7. 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 all works provided by supplier by Supplier, its Subcontractors or ISR.

22.2. **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.

22.3. **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:

22.3.1. Notice of such Proceedings shall be promptly given to Supplier.

22.3.2. 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.

- 22.3.3. At the request and expense of Supplier, ISR shall afford reasonable assistance to Supplier in the defense of such Proceedings.
- 22.3.4. 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).
- 22.3.5. 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.

22.4. **Exclusions.** Subject to the provisions of Section 22.5 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.

22.5. **Exceptions.** The provisions of Section 22.4 above shall not apply with respect to:

- 22.5.1. 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;
- 22.5.2. Alleged or actual infringement of Intellectual Property Rights by the Works or any part thereof;
- 22.5.3. Death or injury;
- 22.5.4. Any Damages to property;
- 22.5.5. Damages of any kind and amount with relation to any negligent or willful act, error or omission by Supplier, its employees, agents, representatives and Subcontractors;

22.5.6. Claim for payment by any Subcontractor.

22.6. **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 25.1 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.

22.7. **Damage or Loss to the Works.** In the event of damage or loss caused to the Works or any part thereof or any malfunctions thereof, whether caused by the fault of Supplier or by the fault of anyone else, Supplier shall, at all times prior to Final Acceptance, proceed promptly with the execution of the Works and shall notify ISR forthwith of any such damage, loss or malfunction. The existence of any such damage, loss or malfunction shall not constitute grounds for ceasing performance of the Works, or for delaying the completion date thereof. **Moreover:**

22.7.1. Any loss or damage to any portion of the Works which arises from or is occasioned by any act or omission of Supplier or any Subcontractor failing to comply with any obligation imposed on it under this Agreement, shall be made good by, and at the sole expense of, Supplier;

22.7.2. Should any loss, damage or injury to any property or person occur while Supplier is repairing a fault or defect in any portion of the Works pursuant to this Section, Supplier shall be liable to the same extent as if said portions had not been accepted by ISR.

23. SUBCONTRACTORS

23.1. The Supplier shall not engage any subcontractor ("**Subcontractor**") for the performance of any of its obligations under this Agreement without ISR's prior written approval. Any such retention, if approved, shall be subject to the following terms and conditions:

23.1.1. The Subcontractor must meet the terms and the conditions set out in the Technical Specifications.

23.1.2. The Subcontractor has read the terms and the conditions of this Agreement and confirms, and warrants that the terms and the conditions of this Agreement, including its Annexes are reasonable and agreeable to it. Furthermore, Subcontractor shall abide by all applicable obligations under the Agreement which are required by it for the fulfillment of the Agreement, such as, but not limited to, obligations with regards to the Declarations and Representations, General Obligations, Intellectual Property, Spare Parts, Warranty, Risks and Liabilities, Delivery Terms, Termination etc.

23.1.3. In the event that the Subcontractor shall fail to comply with this Agreement, ISR shall have the right to rescind its approval (with respect to Subcontractor) and/or

or to instruct Supplier to perform the relevant Works by itself or through other approved Subcontractor, whereupon Supplier shall immediately stop employing the non complying Subcontractor, in accordance with the separation plan, approved in advance by ISR.

23.1.4. The approval, non-rejection, recommendation, instructions, directives or determinations made by ISR with regard to the employment of, and/or to the placement of orders for components and/or equipment with the Subcontractors, shall not relieve Supplier of its responsibility to ISR in connection with the execution of the Works, the Supply of the Wagons and the fulfillment of the obligations under the 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.

23.1.5. The agreement entered into between Supplier and the Subcontractors which relates to the performance of Supplier's obligations under this Agreement shall include all of the following provisions:

- (I) Subcontractor is aware of and agrees to all provisions of this Agreement and their consequences as they relate or apply (expressly or implicitly) to such Subcontractor agreement and/or to the Works to be performed and/or to the equipments and/or components and/or materials to be supplied under such Subcontractor agreement and undertakes to comply with such provisions.
- (II) Subcontractor shall have no legal recourse against ISR in any matter arising out of or connected with the Works. Without derogating from the generality of the above, Subcontractor shall waive any Retention Right against Supplier and ISR, and will confirm that the payments to be made by Supplier to Subcontractors contain ample financial provisions concerning such waiver by Subcontractor of all Retention Rights.
- (III) Subcontractors shall abide by any order of ISR regarding the removal of any specific employee, at ISR's sole discretion.
- (IV) Subcontractor shall agree to any purchases of Spare Parts and/or services by ISR directly from Subcontractor or its subcontractors or suppliers.

24. FORCE MAJEURE

24.1. 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, war, governmental interference or embargoes, strikes, labor difficulties or transportation delays of the Wagons ("**Force Majeure**"). The above does not extend for any contingencies stated above happening to the Supplier's Subcontractors.

24.2. A 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 Supply delayed due to an event of Force Majeure shall be extended for such time as the event shall continue.

25. 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.

26. APPLICABLE LAW AND SETTLEMENT OF DISPUTES

26.1. 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.

26.2. 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.

26.3. 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.

26.4. All matters in dispute, following failure of negotiations as outlined above, shall be referred to the competent Court located in Tel Aviv in 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.

26.5. **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 26.3 above.

27. MISCELLANEOUS

27.1. **Waiver of Lien Supplier.** Supplier hereby waives 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 Wagons, 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.

27.2. **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).

- 27.3. **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.
- 27.4. **Entire Agreement; Amendments.** This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof, superseding all prior and contemporaneous drafts, 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.
- 27.5. **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).
- 27.6. **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.
- 27.7. **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.
- 27.8. **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, facsimile transmission 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: **Michael Maixner**

Signature:

Title: **CFO**

Printed Name:

Signature:

Title:

Printed Name:

Signature:

Title:

Printed Name:

Annex A
Technical Specifications

Annex B

Consideration

Consideration

As detailed in Appendix B of the Tender – Bidder's Proposal Form

Annex C
Bank Account Form

(Total: 2 Pages)

PART A – Supplier's Bank Details

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

We the undersigned, _____ [authorized signatories on behalf of the Supplier] request herein that all payments to be paid to us by Israel Railways Ltd. under this Agreement shall be made by means of bank transfer to our 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] to sign the Bank Account Form, and hereby certify that their signatures upon the Bank Account Form are fully binding in accordance with the _____ [Supplier] 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 Performance and Warranty Guaranty

Israel Railways
Haifa East Station
1 Hativat Golani Street
P.O. Box 1481
Haifa, Israel

Re: Guaranty No. _____ (“Performance and Warranty Guaranty”)

Whereas _____ (the “**Supplier**”) and Israel Railways Ltd. (“**ISR**”) entered into an Agreement No. _____ on _____ (the “**Agreement**”) for the general repair and supply of the Wagons (the “**Wagons**”):

Now, we _____ (“**Guarantor**”) hereby irrevocably guaranty the immediate payment, on first demand, to ISR of the sum of _____ Euro in the event that the Supplier has not fully complied with all of its obligations under the Agreement, including its warranty obligations.

This Guaranty shall be valid and remain in force for a period of sixty (60) days after the end of the Agreement Period as those terms are defined in the Agreement, or as otherwise extended in writing by ISR, Supplier and Guarantor, and may be drawn down by ISR on one or more occasions up to the aggregate amount referred to above. This Guaranty shall not be revocable by Guarantor or Supplier by notice or otherwise.

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.

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Guarantor

Annex E
Form of Payment Guaranty

Israel Railways
Israel Railways - Finance Department
Haifa East Station
P.O. Box 1481
Haifa, Israel

Re: Guaranty No. _____ (“Payment Guaranty”)

Whereas _____ (the “**Supplier**”) and Israel Railways Ltd. (“**ISR**”) entered into an Agreement No. _____ on _____ (the “**Agreement**”) for the general repair and supply of the Wagons (the “**Wagons**”):

Now, we _____ (the “**Guarantor**”) hereby irrevocably guaranty the immediate payment, on first demand, to ISR of the sum of _____ Euro (_____ Euro) [the amount of the Payment, hence ____ % of the Purchase Order Price of Wagons (s)] in order to ensure that ISR can recover the said amount should Supplier not fulfill its obligations and/or breach the Agreement.

This Guaranty shall be valid and remain in force through _____, 20____ or as otherwise extended in writing between ISR, Supplier and Guarantor. This Guaranty shall not be revocable by Supplier or Guarantor, by notice or otherwise.

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

The Guarantor hereby waives any notice of default on the part of Supplier and hereby waives any demand by ISR for payment by Supplier to ISR.

Guarantor

Annex F

List of Spare Parts and Tools

Annex G

Foreign Acceptance Certificate

To:
[Name of Supplier]
[Street]
[City]
[Country of origin]

From:
Israel Railways Ltd.
3 Darchei Moshe St.
Lod 7136801
Israel

We hereby declare that the Works set out below pursuant to Agreement No. _____ have been completed.

Wagons No. _____ are fully in compliance with the Technical Specifications and the Agreement at the Supplier facilities in _____ .

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

Name

Date

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

Confirmed:

Signed: _____ Israel Railways Ltd.

Name

Date

Annex H

Form of Final 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 Wagons, 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 and trials 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 I
Change Order Form

FROM: _____
ISR Project Manager

CHANGE ORDER NUMBER:

TO: _____
Supplier

DATE OF CHANGE ORDER:

ECT(S) ORDERED:

IN ACCORDANCE WITH OUR AGREEMENT MADE EFFECTIVE AS OF _____, 20__, YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ALTERATIONS TO THE TECHNICAL SPECIFICATIONS, DETAILED BELOW. AS OF _____, 20__, THE ECT(S) 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 ECT 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: _____

BY: ISR

Name

Project Manager

Title

Date

Annex J
Inspection and Test Plan

Annex K
Wagons supplied

The Wagons to be supplied are as follows:

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

Name

Date

Signed: _____ Israel Railways Ltd.

Name

Date