

To:

[redacted]
[redacted]
[redacted]

To the Attn. of:

[redacted]

Date: [redacted]/[redacted]/2022

Subject: Contract for the supply of telematics system for 2023

Dear Sirs,

Following the competitive selection process referred to below, we are hereby submitting our contract proposal detailed as follows.

SUPPLY CONTRACT BETWEEN

Mercitalia Intermodal S.p.A., with its registered and administrative offices in via Valtellina no. 5/7, 20159 - Milano (MI), Tax Code and VAT Number IT 00857491005, share capital Euro 7,000,000 fully paid-up, Milano Business Register enrolment no. 00823190152, R.E.A. [Economic and Administrative Index] under no. 0758334, represented herein by Andrea De Bernardi, as Chief Executive Officer and General Manager and, as such, legal representative, duly authorized by resolution of the Board of Directors of 9 May 2022 (hereafter referred to as "**Mercitalia**" or the "**Customer**")

AND

[redacted] with its registered office in [redacted], [redacted], registered in the Companies Register, R.E.A. [redacted], represented by [redacted] who has the necessary authority to sign and represent the company (hereafter referred to as "**Supplier**")

The Client and the Supplier, collectively referred to as the "Parties" and, individually, the "Party"

Mercitalia Intermodal S.p.A.
Gruppo Ferrovie dello Stato Italiane
Società soggetta alla direzione e coordinamento
di Mercitalia Logistics S.p.A.

Sede Legale: Via Valtellina, 5/7 - 20159 Milano
Tel. 39 02 668951 - Fax 39 02 66800755
www.mercitaliaintermodal.it - E-mail: info@mercitaliaintermodal.it
Cap. Soc. € 7.000.000 i.v. - Codice Fiscale e Registro Imprese di Milano n. 00823190152
P.IVA IT 00857491005 - Milano R.E.A 0758334 - MECC. n. MI 325924



GIVEN THAT

- a) The Customer needs to purchase the materials set out in Annex 1 (Organizational and technical specifications - OTS);
- b) A competitive selection process was called for on ■■■/■■■/■■■, in order to award a contract;
- c) A Supplier was selected and awarded at the end of the selection process;
- d) The award was notified to the Supplier by email;
- e) The Customer performed due diligence to determine the Supplier's possession of reliability, technical suitability and financial capability requirements, pursuant to the competitive selection process;
- f) Therefore, the Parties intend to enter into this Contract.

Given the above

The Parties, as represented above, agree as follows:

ARTICLE 1

Introduction and Annexes

The introduction, the instruments referred to therein – although not appended thereto – and the annexes are an integral and substantial part of this contract. If there is a discrepancy between the provisions of the contract and those laid down in the annexes, the former will prevail.

ARTICLE 2

Definitions

The following definitions are applicable to the Contract:

- a) *Monitoring systems*: the *hardware* and *software* installed on a railway wagon enabling the monitoring of the functionalities described in Annex 1 (OTS) and manufactured based on the production specifications set out in the same Annex 1 (OTS);

When this contract mentions "*monitoring systems*" without further specification, such clauses refer to devices in letter a) above.

ARTICLE 3

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Subject

Under this contract, the Supplier undertakes to supply no. 192 (one hundred ninety two) monitoring systems, as per art. 2, letter a), described in Annex 1 (OTS) and manufactured according to the product specifications in the same Annex 1 (OTS).

The supply shall be carried out under Annex 1 (OTS). The Supplier undertakes to carry out the relevant installation, which is included in the prices referred to in art. 12 below, according to the procedures set out in art. 6 below.

ARTICLE 4

Implementation procedures

The supply referred to above under art. 3 shall be carried out professionally, with delivery of the materials perfectly suitable for the use for which they are intended and having the qualities and features provided for in the contract and related annexes.

It is understood that: (i) the monitoring systems shall not affect the features of the railway wagons on which they are installed. The wagons shall have standard factory features, and follow the applicable international regulations, national rules and standards. These systems shall not affect the wagon's interchangeability, operating life, regular operation or safety, including if they fail or malfunction; (ii) in the manufacture and in the installation of the monitoring systems referred to in this contract, the Supplier shall not change the final project of the railway wagon on which the devices are to be installed. It shall provide supporting documentation/certificates, at its expense and without increasing the price agreed in art. 12 below.

The materials which are the subject of the supply, as referred to in this contract, shall be delivered to the Customer suitably packaged and under the methods established by articles 41 to 49 of the "Condizioni Generali di contratto per gli appalti di forniture delle Società del Gruppo Ferrovie dello Stato Italiane" (hereafter "C.G.C.") as referred to below under art. 28.

Furthermore, the Supplier shall be required to observe the technical requirements listed below:

- **Conditioning – Packaging – Protection**

The conditioning, packaging and protection inherent to the materials which are the subject of the supply shall be carried out in compliance with articles 46 and 47 of the C.G.C.

- **Prohibited materials**

As for the use of the prohibited materials, point 1 of the FS Technical Specifications no. P.MR/R.06/P00.007 will apply.

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○ **Defective materials**

As for the Supplier's liability for damage caused as a result of a product defect, without prejudice to Italian Legislative Decree 206/2005 ("Consumer Code, under article 7 of Law No. 229 of 29 July 2003") the C.G.C. shall apply, particularly articles 51, 52, 53.

○ **Hazardous products and preparations - collection and disposal**

The supply of the materials, if the same includes "hazardous preparations" for humans and for the environment, shall be carried out in compliance with the requirements provided for by current legislative provisions (Italian Ministerial Decree 28.01.1992 – Official Gazette no. 50 of 29.02.1992) and in compliance with the procedure provided for by the FS Technical Specifications no. T/MR.AMM.G.06/P00.018. The "safety data sheets" and the related "summary list", as referred to in the specifications, must reach the Customer within the times and by the methods provided for by the same specifications.

The Supplier shall carry out the collection, disposal and destruction of the explosive products, including any that have expired, and the waste produced by lighting pyrotechnics of any kind in full compliance with Italian Ministerial Decree 101/2016. Under the above Italian Ministerial Decree, the Supplier is required to collect, free of charge, any pyrotechnic items which are unused, expired or no longer subject to further use for the purposes for which they were intended and the waste deriving from their use, ensuring their storage and transportation from the place of storage to a plant specifically authorised to dispose of them through thermal destruction, in compliance with existing regulations safeguarding public health and public safety.

○ **Fire protection of railway vehicles**

The Supplier shall implement risk mitigation against fire for the components of the WaggonTracker and ensure that installed on the waggon are conforming to either EN45545 or UL94-0 and observe current regulations.

ARTICLE 4-bis

Authorisations

The Supplier declares, under its sole responsibility, that it has all of the authorisations, permits, clearances, licences, registrations with the relevant Registers/Rolls, etc. and that it has met all the administrative requirements for the implementation of all the services covered by the supply, following applicable legislative and regulatory provisions and standards.

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The Supplier undertakes to scrupulously observe the contents of the authorisations, permits or licences, accepting the widest liability for any sanctions that might be applied as a result of non-compliance, undertaking to indemnify and hold the Customer harmless from any related damages of any nature. It follows that, falling within the exclusive scope of the Supplier's liability is the proper and timely compliance with all existing regulations issued on the matter by the employees or supervisors of the same.

The Supplier undertakes to promptly notify Mercitalia if the Public Administration or any relevant Body, for reasons not attributable to it, revokes, terminates or suspends the supply, or if any actions may prevent the execution of the supply, in whole or in part.

ARTICLE 5

Transportation and delivery conditions

The transport of the materials under this contract shall be borne by the Supplier up to the recipient plants, as identified in the following art. 6 below.

The materials shall be delivered using the methods laid out in articles 41 and 49 of the C.G.C.

ARTICLE 6

Place of delivery

The parties agree that the delivery of the equipment referred to in this contract shall take place according to the Annex 2 (Delivery schedule).

For this contract purposes of, "delivery" means the physical acceptance by the Customer of each railway wagon with the monitoring systems installed by the Supplier, who shall deliver to the Customer the certificate of installation of the monitoring systems on each wagon, under this contract requirements, at the delivery location set out above.

The delivery of each monitoring system installed on board the relevant wagon shall be reported under art. 7 below.

Transport costs between the place of manufacture and the place of delivery shall be borne by the Supplier.

The Parties agree that the transfer of ownership of each monitoring system to the Customer shall take place only upon delivery of the monitoring system at the above location. Consequently, all risks shall be borne exclusively by the Supplier until then.

ARTICLE 7

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Terms of delivery

The delivery of the monitoring systems shall take place according to the Annex 2 (Delivery schedule).

Each delivery must be traced with a delivery note that has to be transmitted the day of departure to the Customer by the Supplier.

Any delay regarding the terms will lead to the application of the penalties laid out below under article 17.

Under art. 44.1 letter a) of the C.G.C., overheads are quantified at 3% (three per cent) of the amount of this contract, as referred to below under art. 12.

ARTICLE 8

Quality Plan

The supply shall be carried out under a Quality Assurance system. The Supplier shall operate, for all contractual obligations, with a quality system that conforms to UNI EN ISO series 9000.

In addition, the supplier will supply a general report with a correlation matrix of requirements, test performed in R&D, production and installation and organizational responsibilities and a commissioning report for each waggon.

It is understood that the Customer reserves the right to contest any discrepancy between the Quality Plan and the contractual provisions at any time.

ARTICLE 8-bis

Minimum Cybersecurity Measures

The Supplier shall ensure the security of the computer system used to perform the services covered hereunder, including the related activities of transmission, reception, storage and electronic sharing of all documentation relating to the subject matter of this contract.

To this end, the Supplier must:

- a) comply with the following essential cybersecurity measures:
1. Appoint a contact person who is responsible for coordinating the management and protection of information and IT systems;
 2. Identify and comply with laws or regulations in the field of cybersecurity;
 3. Ensure that all relevant devices are equipped with regularly updated protection software (antivirus, antimalware, etc.);

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4. Ensure that passwords are different for each account, of the appropriate complexity and with automatic lockout procedures following repeated attempts. It is necessary to evaluate the use of the most secure authentication systems offered by the service provider (e.g. two-factor authentication);
 5. Ensure that personnel authorised to access IT services, whether remote or local, have personal users not shared with others; that access is properly protected and that old accounts that are no longer used are deactivated;
 6. Ensure that staff are adequately sensitized and trained about cybersecurity risks and practices to be adopted for the safe use of business tools (e.g., recognising email attachments, use of authorised software only, locking a device in case of non-use, etc.);
 7. Ensure that the initial configuration of all systems and devices is carried out by experienced personnel, responsible for safe configuration;
 8. Ensure that encrypted network protocols (e.g., SSH, SSL) are used when using web applications with public network access, or remote management of servers and network devices;
 9. Ensure that information and data are periodically backed up and that such backups are kept securely and verified periodically, with the understanding that, where required, the data will be made available in a timely manner;
 10. Ensure that networks and systems are protected from unauthorised access through specific tools (e.g., Firewalls and other anti-intrusion devices/software);
 11. Ensure that all software in use (including firmware) is upgraded to the latest version recommended by the manufacturer;
- b)** Report a possible cyberattack as soon as possible by contacting +393316360190, or by writing to securityincident@fsitaliane.it;
- c)** Perform a back-up of the above computer documentation on an off-line system in order to avoid, at minimum, the loss of documents and, in case of requirements with a deadline imposed by contract or law, to produce the documentation according to a timeline that allows compliance with the terms of law or contract, even in the event of a cyberattack;
- d)** Allow access by personnel appointed by the Customer for the verification of the minimum measures adopted under letter a), above, and data processing regulations.

If there is a partial or complete failure of even one of the obligations listed above, the Customer will have the right to terminate this contract under art. 1456 of the Italian Civil Code, and, regardless of the exercise of that option, the right to full compensation for damage suffered as a result of non-compliance.

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ARTICLE 9

Testing

The testing shall be carried out by the Customer according to the specification in the respective Annexes to this agreement.

As part of the above functional test of the braking system, tests and inspections will take place on the wagons' braking system sensor, test results will be documented and checked for correctness during the commissioning process. The same is applicable for the hitch monitoring. The test conditions must be reported in the Manufacturing and Control Plan and in the report attached to the wagon's Vehicle Record.

The Supplier undertakes to deliver this material to the Customer: copies of the certifications relating to the type and series tests carried out following the times and methods set out in the Technical Specifications. The Supplier shall issue the “*Declaration of conformity to the order*” and send it via email to the Customer the same day of the departure of each delivery.

Failure to send the “*Declaration of conformity to the order*” and anything else that may be provided for in the reference technical specifications, where applicable, together with the materials to the recipient plant will result in the failure to take charge of the materials and failure to receive them, and the application of any penalties for late delivery up to the date on which the Customer receives the above documentation, which the Supplier shall send by email or registered letter with return receipt.

ARTICLE 10

Guarantee of Proper Operation

The monitoring systems are covered by a guarantee from the moment of delivery and up to the expiry of 24 (twenty-four) consecutive calendar months from the test date. This guarantee shall be included in the price of the devices, as established in art. 12 below, without any increase.

The above guarantee may be extended for a further 24 (twenty-four) consecutive calendar months, starting from the expiry of the previous guarantee period, if the Customer informs the Supplier in writing within this period. The Supplier shall be obliged to provide this additional guarantee under the conditions set out in this article. To extend the guarantee, the Client shall pay an additional fee corresponding to the 2% of the purchase price, excluding VAT, per year for each monitoring system for which such additional coverage has been requested within 30 (thirty) days and subject to a Supplier invoice.

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During the guarantee, the cost of eliminating defects, faults and failures on devices that do not comply with the conditions set out in the contract and in Annex 1 (OTS), including travel expenses for maintenance on the devices, shall be borne by the Supplier. The Supplier shall not provide a guarantee in cases where the Customer has carried out modifications without the prior consent of the Supplier, or for defects arising from the non-compliance with the Supplier instructions or improper or incorrect use of the product, or from external influences or cases of force majeure. Wear parts are excluded from the guarantee.

Any corrective measures that may become necessary during the guarantee period to meet the requirements must result in updates to the technical documentation to be delivered to the Customer.

Rectification of defects/corrective measures still in progress at the end of the guarantee period must be completed without any costs being incurred by the Customer.

The guarantee includes the free replacement or repair of defective or non-functional components or remote maintenance work on the monitoring systems software.

Requests for assistance will be forwarded by the Customer to the Supplier by fax or email. To this end, the Supplier shall provide the Customer with a fax number or a certified email address for any such communication.

Assistance operations must completely restore the device functionality to allow the railway wagon to be put back into service, within and no later than 15 (fifteen) consecutive days from the call, excluding public holidays for repair planning. In case of emergencies (i.e. wheel set damage), the supplier will be available for repair within 15 days.

Unless otherwise provided for in this article, articles 50 and 51 of the C.G.C. shall apply.

ARTICLE 10bis

Operations after the guarantee period expiry

The Supplier undertakes to work on any defects or faults that may occur once the warranty period referred to in art. 10 has expired, at the Customer's expense. The parties must agree upon this work.

Such requests for assistance shall be forwarded to the Supplier by the Customer using fax or email. Repair work shall be completed, resulting in the complete restoration of the functionality of the devices, in such a way as to allow the railway wagon to be put back into service no later than 15 (fifteen) consecutive days from the call, excluding holidays for repair planning. In case of emergencies (i.e. wheel set damage), the supplier will be available for repair within 15 days.

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ARTICLE 11

Increase/Decrease in the quantities requested

Under art. 14 of the G.C.C., the Customer reserves the right - to which the Supplier consents - to increase or decrease the supply quantity at any time during the contract term without the Supplier exempting itself from carrying out the requested changes or making any exceptions, rights or claims.

The above is without restriction and is up to a maximum of 20% (twenty per cent) more or less than the estimated amount referred to below under article 12. In the event of a reduction in the supply, the supplier will only be entitled to reimbursement of the costs incurred up to that moment for the construction of the devices subject to reduction, with the exclusion of any further compensation or claim, including compensation, also in derogation of the provided for by art. 1671 c.c.. In case of increase, the supplier and the customer will need to agree on feasible lead time.

If there is an increase in contractual services up to the maximum of one fifth of the amount of the Contract, the written order shall contain adequate time extension of the expiry period of the Contract to the extent strictly necessary to enable the performance of the additional services, equal to a maximum of six months.

In case of decrease, of the contractual services, the Customer must inform the Supplier 5 months before the delivery deadline.

ARTICLE 12

Fees

For the supply of the 192 monitoring systems, the Supplier shall be paid € [REDACTED], [REDACTED] ([REDACTED]/[REDACTED] Euro) excluding VAT, corresponding the prices for each type of system set out in the attached Price list (Annex 3).

In addition to the above prices, which refer only to the development, construction, supply and delivery of the monitoring systems, the Customer shall pay the Supplier, for each device delivered, an additional fee of € [REDACTED], [REDACTED] ([REDACTED]/[REDACTED] Euro) excluding VAT, per year, for the lifetime service, for the service of transmission of the data from the systems to the Customer via the Supplier server.

The Supplier is available to transfer in the future the server to the Customer once an agreement about costs and reimbursement is reached between the Parties.

ARTICLE 13

Fixed Prices

The fees referred to in the article above are understood to be offered by the Supplier based on its calculations, evaluations and estimates and, by way of derogation from art. 1664 of the Italian Civil Code. They will be invariable and not subject to any modifications, whatever eventuality may occur at any time, for the contract's duration.

ARTICLE 14

Payment Methods

The payment of the fees referred to in this contract shall take place as follows: a down payment of 35% at time of order confirmation and the rest of the payment is subject to the delivery of the devices, in the manner described in art. 6 above, and upon the positive outcome of the tests under art. 9.

Within 10 (ten) days from the delivery and acceptance of each batch of material to be supplied, the Customer will authorise the invoice issue if no non-conformity is found on the delivery.

Once the authorisation has been received, the Supplier shall issue an invoice for completing the amount to be invoiced for each delivered system.

By applying the combined provisions of paragraphs 2, letter a) and 5, letter a) of art. 4 of Italian Legislative Decree 231/2002, as amended by Italian Legislative Decree 192/2012, the payment terms for the fees are set at 30(thirty) days from the invoice receipt date, under the procedure of art. 57 of the C.G.C..

Invoices shall be issued in compliance with current legislation and made out to:

Mercitalia Intermodal SpA

Address: Via Valtellina 5/7 - Milan (MI)

VAT number IT 00857491005

For DTC

sent, by means of direct upload to the Ferservizi Portal (<http://www.ferservizi.it/ferservizi.html>) of the image format of the invoice (PDF), with the email address amministrazione-dtc@mercitaliaintermodal.it in copy. Ferservizi shall provide a written version of the document, which shall constitute the original invoice under Art. 21 of Presidential Decree no. 633/1972 as amended by Legislative Decree no. 52/2004.

In addition to the Supplier's details (name – tax code – VAT number) and the issue date, all other information needed to pay the fee must be written on the invoices.

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Invoices shall contain the following:

- ✓ contract details;
- ✓ total amount;
- ✓ type of wagons;
- ✓ quantity;
- ✓ unit price;
- ✓ total price;
- ✓ place of delivery;
- ✓ delivery documentation details;

A single invoice shall be issued for each shipment.

Any delay due to non-compliance with the procedure established above cannot be chargeable to the Customer. Any clause unilaterally added by the Supplier in the invoice shall be considered null and void.

For payment purposes, the Supplier has communicated the following current account details:

cod. IBAN opened at .

Payments will be made by bank transfer to the above current account.

In case of default of payment within the stipulated time period, interest at the legal rate pursuant to art. 1284 of the Italian Civil Code will be charged.

ARTICLE 15

Assignment of receivables

Any receivables and debts arising from this contract may be the subject of assignment or delegation or mandate to collect or any act of disposition (“Assignment”) in favour of Fercredit-Servizi Finanziari S.p.A. – companies of the FS Italiane S.p.A. Group or of banking and financial intermediaries authorised and supervised by the Bank of Italy.

Within 20 days of receipt of the Assignment notification, the Customer may express a reasoned refusal.

The Customer can oppose the assignee all exceptions opposable to the assignor under the stipulated contract.

ARTICLE 16

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Security Deposit

p.m.

ARTICLE 17

Penalties - Non-application

Without prejudice to compensation for greater damage, in the event of the Supplier's non-fulfilment of its obligations as derived from this contract, the following penalties will be applied:

○ **Penalties for late supply delivery or execution**

If the Supplier fails to comply with the supply delivery terms, or there is a partial or total non-execution of the supply, the measures referred to in article 55 of the C.G.C. shall apply.

○ **Other penalties**

If the Supplier fails to comply with, or in the event of late compliance with, the provisions established in the documents making up the QP, and in case of non-fulfilment of contractual specifications including those relating to the guarantee obligations referred to in the previous art. 10, a penalty of € 60,00 (sixty Euro) for each day of delay shall be applied.

If after repair, defects, failures or breakdowns re-occur after successful repair during the warranty period, the Supplier shall be charged an additional penalty of € 500,00 (five hundred Euro) in addition to the penalty referred to in the previous period. This is without prejudice to compensation for any greater damage as a result of the expenses connected with the immobilisation of the railway wagon concerned (e.g. for shunting, use of the workshop, etc...)

Non-application of penalties

The Supplier may submit a reasoned request to the Customer concerning the total or partial non-application of the penalties.

The opinion shall be sent by email or registered letter with return receipt within 30 (thirty) calendar days from the date on which the Customer has made known to the Supplier its decision to apply the penalties.

Requests submitted after the deadline, or in a manner other than that set forth above shall be considered late, inadmissible and dismissed.

The Customer will assess whether a request is grounded and will notify the Supplier of its decisions.

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www.mercitaliaintermodal.it - E-mail: info@mercitaliaintermodal.it
Cap. Soc. € 7.000.000 i.v. - Codice Fiscale e Registro Imprese di Milano n. 00823190152
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ARTICLE 18

Express Termination Clause

Under art. 1456 of the Italian Civil Code, Mercitalia has the right to terminate this contract due to the Supplier's non-fulfilment, and for cases under art. 61 of the C.G.C., and specifically:

1. If the Supplier does not have the required permits, or if the above permits or authorisations, under art. 4-*bis* above, have been revoked, voided or suspended;
2. If there is a delay greater than 30 (ninety) days with respect to the delivery terms established above under art. 7;
3. A breach of the obligations as referred to in art. 8-*bis* ("Minimum Cybersecurity Measures");
4. A breach of the obligations as referred to in art. 19 ("Liability for damages") or a failure to activate or terminate the policy referred to below under art. 19-*bis* for the agreed limits;
5. Failure to comply with art. 23 ("Contract Non-Transferability – Subcontracting");
6. Failure to comply with arts. 24 ("Price Transparency"); 25 ("Code of Ethics"), 25-*bis* ("Conflict of Interest"), and 25-*ter* ("Confidentiality Requirements");
7. Disqualification notice issued under Art. 91 of Italian Legislative Decree 159/2011;
8. Failure to comply with the obligations provided for in Art. 23-*bis* ("Intellectual Property Rights and Supplier's Warranty")

The resolution is declared without the need for notice or formal notice by the other party, by email or registered letter with return receipt, and involves the Customer's right to collect the security deposit under Art. 16, without prejudice to its rights against the Supplier to seek compensation for any additional damages.

ARTICLE 19

Liability for damages

The Customer assumes no liability for damages that may be suffered by the Supplier - and its employees, nor to any independent support personnel, their property, nor to third parties - in the performance of the services covered by the contract or any other reason unattributable to the Customer.

The Supplier assumes all liability for injury/loss to the Customer personnel and property and those of the F.S.I. Group companies, or to third parties (persons or property), due to its own acts or omissions, or those of its employees and independent support personnel associated with the services performed by the Supplier, and no clauses or agreements contained in insurance contracts shall limit its liability in any way, and it undertakes to indemnify the Customer against any third-party claim brought against it.

The Supplier guarantees the complete and timely implementation of all the commitments and obligations assumed under the contract, and undertakes to hold the Customer harmless from any liability, damage and expense in relation to any actions, claims and complaints, including those brought by third parties, connected or otherwise deriving from the execution of the contract, due to actions by the Supplier or its employees or business partners, or directly or indirectly attributable to them, without prejudice to the case in which an injury is attributable to the Customer's malicious misconduct or gross negligence.

The Supplier's liability for consequential damages is excluded for losses resulting from conventional penalties imposed by third parties, over which the Supplier agreement has no influence.

Where, in connection with the execution of the supply, any damage results from, is dependent upon or is connected to railway operation or traffic, the Supplier assumes all liability if it appears that the same has not taken the measures prescribed by this contract, its annexes and operating regulations, or required by standard diligence in relation to the circumstances, and whose purpose was to prevent the event or to avoid harm, and the Supplier is unable to prove that the damage could not have been avoided under any circumstance.

ARTICLE 19-bis

Insurance coverage

Within 10 (ten) days from the date on which this contract is concluded, the Supplier will provide suitable insurance coverage for third-party civil liability, stipulated for this purpose or already in its possession.

The insurance policy referred to in the above paragraph, stipulated with a leading insurance company and effective for the entire duration of this contract, any extensions and the warranty period referred to above under art. 10, with a maximum claim of not less than € 10,000,000 (Euro ten million) per claim per year, shall contain the obligation to indemnify and hold the Company harmless from what it is required to pay, as civilly liable under the law, by way of compensation (capital, interest and expenses) for damages caused to a third party or parties for death, injury or for material damage to tangible assets,

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as a result of an accidental event or events which occurred in relation to the execution of this contract.

The insurance policy referred to in the above paragraph shall expressly provide that the following are considered third parties:

- The Customer and its employees;
- F.S.I. Group Companies and their employees and agents.

The insurance policy referred to in this article shall contain the following obligations for the insurance company:

- The waiver of the right of recourse against FS Group companies and their employees;
- Consider FSI Group companies and their employees, as well as other Group Contractors and their employees as third parties performing services in the same contract location.
- Notification to the Customer by certified e-mail (PEC) or letter registered letter with return receipt, of non-payment of the premium installments, without prejudice to the operation of the coverage for 90 days from the date of such notification. In this regard, the Customer will have right to pay the premium directly, deducting the amount from the consideration due to the Company;
- Not to decrease the insured sums or cancel the insurance contract without communicate it to the Customer.

ARTICLE 20

Withdrawal

The Customer has the right to withdraw from this contract by notifying the Supplier by certified email or by registered letter with return receipt to be sent to the Supplier's address at least 90 (ninety) days before the date on which the withdrawal is to take effect.

If there is a withdrawal, the Supplier will be entitled to what is provided for under art. 63.3 of the C.G.C.

ARTICLE 21

The Customer's Contract Manager

The Customer appoints Cesar Augusto Osorio Mendoza, email c.osoriomendoza@mercitaliaintermodal.it, mobile +39 3357859875 as the Contract

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Manager who will ensure the contract is properly executed by the Supplier, verifying its compliance with the contractual requirements.

For this task, the Contract Manager may rely upon deputies or duly appointed personnel.

ARTICLE 22

Supplier's Contract Manager

The Supplier appoints [REDACTED] [REDACTED] tel. [REDACTED] email address [REDACTED] as the Contract Manager, who will be responsible for the exercise of all the powers provided for in this contract.

The Contract Manager acting on the Supplier's behalf may rely upon deputies or duly appointed personnel for this task.

Any communication or information exchange between the Parties regarding the execution of the contract may be done electronically, following that established by article 4.5 of the C.G.C..

ARTICLE 23

Contract Non-Transferability - Subcontracting

The Supplier cannot assign this contract under penalty of termination, pursuant to the previous Art. 18.

The Supplier may resort to subcontracting within the limits of what is stated in the offer and under the conditions referred to in this article and in Article 15 of the C.G.C., as applicable, for the execution of the following services:

- Installation of the monitoring systems on the wagons.

The subcontracting remains, however, subject to the issue of a specific authorization by the Customer after verifying the existence of the following conditions:

1. That the subcontractor is registered, if Italian, in the Register of Companies or, if a foreigner, in similar registers according to the regulations of each country;
2. That against the subcontractor, there are no prohibitions provided for by Legislative Decree 159/2011, by Law 19 March 1990, n. 55, as well as their amendments and additions and the impediments provided for in paragraph II.2 of the letter of solicitation to submit an offer, ascertained in the manner prescribed by the solicitation letter;

3. That the Supplier provides for the deposit of the subcontracting agreement with the Customer at least thirty days before the effective start date of the execution of the related services.

The subcontracted services may not, in whole or in part, be the subject of further subcontracting. This prohibition must be foreseen in a specific clause of the contract between the Supplier and the subcontractor.

It is understood that the Supplier is fully and exclusively responsible towards the Customer for the execution of the services referred to in this contract and the relative quality levels as well as any other consequence of the work of the Subcontractors and their employees. The Supplier undertakes the obligation to provide the Customer with proof that the subcontractor has full knowledge of the obligations undertaken by the Supplier itself. Any subcontracts, other than subcontracting, are governed by article 15 point 5 of the C.G.C..

ARTICLE 23-bis

Intellectual Property Rights and Supplier's Warranty

The Supplier fully transfers to the Customer, free of charge and exclusively, all intellectual property rights, both moral and patrimonial, which may in any case refer to what is supplied in execution of this contract. Therefore, in renouncing as of now to assert any right referred to in the previous paragraph, the Supplier unconditionally acknowledges to the Customer any right of economic use, irrevocable and royalty-free, on what has been supplied in the execution of this contract, including, by way of example only, the right to reproduction, the right to perform, disseminate, distribute, publish, process and develop, to license, promote and create derivative works.

Without prejudice to the provisions of art. 5 of the C.G.C., the Supplier hereby declares that any contribution provided in any way during the execution of this contract, in any form presented, does not violate any intellectual property rights of others or personal rights, however named. Consequently, he provides an express guarantee, without time limit, against any possible claim by third parties who assume to be owners, licensees or otherwise holders of intellectual property rights on what has been supplied in the execution of this contract. The Supplier also provides a similar guarantee against any possible claims by third parties who complain of the infringement of personal rights such as, for example, the right to image.

Therefore, the Supplier accepts, irrevocably and perpetually, to hold the Customer harmless from any claim, request, compensation, cost, burden and responsibility, including administrative management or consultancy and reasonable extrajudicial legal

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costs, advanced by third parties due to activities carried out in execution of this contract or in any case deriving from the latter.

ARTICLE 24

Pricing Transparency

The Supplier expressly and irrevocably:

- Declares that there has been no intermediation or other work by third parties for the stipulation of this Contract;
- Declares that it has not paid, nor promised to pay sums or other intermediary fees or similar, directly or through associated or subsidiary companies aimed at facilitating the contract completion;
- Will not pay any sums to facilitate, make this Contract implementation or its management cheaper for the obligations assumed nor to perform any similar action.

In the event that even one of the declarations made under the preceding paragraph is found not to be true, or the Supplier does not comply with the commitments and obligations undertaken hereunder for the entire duration of this contract, the contract shall be terminated automatically, under art. 1456 of the Italian Civil Code, as a result of default and negligence by the Supplier, who will consequently be required to compensate all damages resulting from the termination, and be removed from the professional roster, if any.

ARTICLE 25

Code of Ethics

The Supplier shall comply with the rules contained in the *"Ferrovie dello Stato Italiane Group Code of Ethics"*, published on the website: www.fsitaliane.it

Although this code is not attached to this contract, it is an integral and substantial part and the Supplier declares that it has a detailed and complete knowledge.

If any of the rules contained in the above Code of Ethics are breached, the Customer has the right to terminate this contract, under art. 1456 of the Italian Civil Code, without prejudice, in any case, to any other legal remedy, including the right to seek compensation for any damages suffered.

In the execution of this contract, the Supplier declares that it is aware of and has made its employees and collaborators aware of the contents of Italian Legislative Decree 231/2001 and the sanctions if there is a violation and to share the principles expressed in the Organisation, Management and Control System adopted by the Client under the Decree (the "System"). A breach of this document or these documents, the principles it contains

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or the provisions provided for by Italian Legislative Decree no. 231/2001 by the Supplier shall result in the immediate contract termination under art. 1456 of the Italian Civil Code, without prejudice to any further remedies and actions provided for in this contract or by law.

ARTICLE 25-bis **Conflict of Interest**

For Contract performance purposes, the Supplier warrants the absence of subjective or objective situations that may result in a conflict of interest hindering the performance of the contract.

Should any unforeseen situations of conflict of interest arise during the execution of the Contract, the Supplier undertakes to immediately inform the Customer, which shall proceed with the appropriate assessments.

If one of the declarations made under this article is untrue or the Supplier does not comply with the commitments and obligations for the contract duration, the contract shall be automatically terminated, under art. 1456 of the Italian Civil Code, as a result of default and negligence by the Supplier, who will consequently be required to compensate all damages resulting from the termination.

ARTICLE 25-ter **Confidentiality Requirements**

The Parties undertake not to disclose to third parties and not to use in any way, for reasons other than those relevant to the execution of this contract, technical information relating to facts, acts, programmes, projects, processes, drawings, equipment, appliances, machines, etc., which are made available to each other, or of which the Parties are aware at the time of such execution.

The confidentiality requirement shall be binding during and after this contract and until the information learned has become public knowledge.

The confidentiality requirement referred to in this article shall remain binding without time limit, even in case of contract termination or withdrawal.

ARTICLE 26 **Personal Data Protection**

The Parties undertake to process personal data, acquired in the context and for the purposes related to the assignment and execution of the contract, in compliance with the

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principles of correctness, lawfulness and transparency provided for by current legislation on the protection of personal data (EU Regulation 2016/679 and Legislative Decree no. 196/2003 and subsequent amendments).

In particular, the Parties undertake to process personal data in compliance with the principle of minimization, as well as to guarantee its integrity and confidentiality.

It is without prejudice to the obligation of each of the Parties, as independent Data Controllers, to provide information on the processing of personal data to the natural persons of their organization and to those of the other Party whose data are processed for the purposes referred to. in the first paragraph of this article and guarantee the exercise of the rights of the interested parties.

The disclosure obligation referred to in the third paragraph is fulfilled by the Customer through publication in the "Gare" section of the institutional website www.mercitaliaintermodal.it and by the Supplier through .

Each Party is liable for disputes, actions or claims made by the interested parties and / or any other person and / or Authority regarding the non-compliance with the current legislation on the protection of personal data (EU Regulation 2016/679 and by Legislative Decree . 196/2003 and subsequent amendments), attributable to it.

ARTICLE 26bis

Data Protection Agreement

The execution of this Agreement entails the autonomous processing of personal data by Mercitalia and the Supplier who are therefore configured as independent Data Controllers, pursuant to Article 4 of EU Regulation 2016/679 both towards the other Data Controller than towards the subjects to whom the personal data processed refer.

The Parties mutually agree to know and apply, within their own organizations, the current legislation on the protection of personal data for the purpose of proper management of the processing.

In particular, the Parties undertake:

- A timely verification of compliance of the processing carried out for the execution of the Contract with the current legislation on the protection of personal data;
- Mutual cooperation in the event that one of them is the recipient of requests for the exercise of the rights of the interested parties provided for in Article 12 et seq. of the 2016/679 EU Regulation or requests from the Supervisory Authorities concerning areas of treatment falling within the competence of the other party;

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- To apply suitable and adequate security measures to protect the personal data processed by them for the purposes related to the execution of this Agreement, against the risks of destruction, loss, even accidental, of unauthorized access or modification of data or processing not allowed or not in accordance with the purposes of the collection;
- To mutually inform each other of any potential breach of personal data (Data Breach) that may in any way affect the other Party, proceeding without delay to the notification of the personal data breach to the Supervisory Authority, in cases where such notification is due by the Data Controller, pursuant to Article 33 of EU Regulation 2016/679.

ARTICLE 27

Tax Liabilities

The services covered by this contract are subject to VAT. Any changes in the tax regime shall not, under any circumstances, lead to changes of the agreed fee.

This contract, entered into by an exchange of letters under commercial practice, is subject to VAT and is exempt from registration for tax purposes until registration, under art. 5 of the registration tax Consolidation Law approved by Italian Presidential Decree no. 131 of 26 April 1986 and, if registration is requested, the requesting party will be obliged to make a fixed tax payment following art. 40 of the Consolidated Law.

ARTICLE 28

Referral clause

For anything not governed or otherwise regulated by this contract, reference is made to the Italian Civil Code, to any other legislative or regulatory provisions that may be applicable to the services covered by this contract, and to the provisions, expressly referred to in this contract as well as in the specific acceptance declaration under 1341, attached, of the “*Condizioni Generali di contratto per gli appalti di forniture delle Società del Gruppo Ferrovie dello Stato Italiane*”, approved by the Board of Directors of Ferrovie dello Stato Italiane S.p.A. at its meeting on 22 March 2017 and registered at the Italian Revenue Agency, Provincial Directorate I of Rome, Rome 1 Trastevere District Office, no. 5987 Series 3, on 23 June 2017, and issued by Group Resolution no. 231/AD of 17 July 2017 (referred to as “C.G.C.”), which are available on www.mercitalialogistics.it, under the “*Bandi e Gare*” (Calls and Tenders) section, which, although not attached to this contract, it is an integral and substantial part. The Supplier declares to have a detailed and complete knowledge of these conditions.

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ARTICLE 29

Supplier's domicile

For administrative, legal and tax purposes, the Supplier declares to be domiciled in _____, _____, _____, otherwise the domicile will be _____ Town Hall.

ARTICLE 30

Disputes, Court Jurisdiction and Applicable Law

Arbitration is not allowed. Any disputes arising from this contract will be referred, exclusively, to the jurisdiction of the Court of Milano. This contract is governed exclusively by Italian law.

The Parties mutually acknowledge that every single clause of this contract has been the subject of free and equal negotiation. Therefore, the articles do not apply art. 1341 and 1342 of the Italian Civil Code.

ARTICLE 31

Annexes

The following documents are annexed to this contract, and are an integral and substantial part:

1. *Annex 1: OTS;*
2. *Annex 2: Delivery schedule;*
3. *Annex 3: Price list.*

If you agree, we invite you to send us a note on your letterhead containing the exact reproduction of the text of the contractual proposal above, initialled on every page and with a double signature at the bottom by your legal representative or attorney with the necessary powers (see reserved spaces below). This will express full and unconditional acceptance of the proposal and specific acceptance of the restrictive covenants listed below under articles 1341 and 1342 of the Italian Civil Code. Together with the above, please send us a copy, initialled on each page and signed, of the text of the Annexes listed in art. 31 of the contract proposal

The above note, together with the Annexes, must be sent to:

Cesar Augusto Osorio Mendoza,

Email: c.osoriomendoza@mercitaliaintermodal.it

Mercitalia Intermodal SpA

Address:

Via Valtellina 5/7

20159 - Milano (MI)

For DTC

Best regards.

Place, date.....

The Client

Signature.....

For acceptance of the Contract Proposal

Place, date.....

The Supplier

Signature

.....

“List of clauses subject to specific approval Contract No. [redacted] of [redacted]/[redacted]/[redacted]”

Under art. 1341 of the Italian Civil Code, for acceptance of the clauses relating to the “*Condizioni Generali di contratto per gli appalti di forniture delle Società del Gruppo Ferrovie dello Stato Italiane*”, approved by the Board of Directors of Ferrovie dello Stato Italiane S.p.A. at its meeting on 22 March 2017 and registered at the Italian Revenue Agency, Provincial Directorate I of Rome, Rome 1 Trastevere District Office, no. 5987 Series 3, on 23 June 2017, and issued by Group Resolution no. 231/AD of 17 July 2017

- Art. 5 Industrial and Commercial Property. Patents;

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- Art. 6 Confidentiality requirements;
- Art. 8 Stipulation of contract and start of contract services;
- Art. 9 Contract, registration and ancillary costs to be borne by the Supplier;
- Art. 10 Warrantees;
- Art. 12 Contractual prices;
- Art. 14 Amendments to the contract;
- Art. 15 Anti-Mafia measures, compliance with social security contributions and compensation requirements, transfer of contract and subcontracting;
- Art. 17 Supplier disputes;
- Art. 19 Damage due to Force Majeure and the Supplier's liability for damages;
- Art. 42 Security deposit;
- Art. 43 Contract terms, suspension of contract performance and extensions thereto;
- Art. 44 Unlawful duration of suspension;
- Art. 50 Warranty and its duration;
- Art. 51 Defective materials;
- Art. 54 Penalties for non-compliance and methods for financial calculation of delays;
- Art. 55 Penalties for delay or non-execution and early completion bonuses;
- Art. 56 Fee for the supply and payments;
- Art. 57 Terms and methods of payment;
- Art. 58 Invoice submission;
- Art. 59 Debt collection - Compensation;
- Art. 60 Suspension of payments;
- Art. 61 Express Termination Clause. Performance of contract services by third parties;

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- Art. 62 Damage compensation;
- Art. 63 Withdrawal from the contract

For specific acceptance of restrictive covenants

Place, date.....

The Supplier

Signature

.....

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