



Tender No. 68/19

Vehicle Occupancy Detection System

For "Alter-native" Experiment

THE AGREEMENT

Volume B

Appendices

<u>No.</u>	<u>Title</u>
Appendix A	Scope of Work (SOW), Approved Detailed Design and the Supplier's Bid
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Agreement

Vehicle Occupancy Detection System

Agreed and stipulated on _____ day of _____ year _____ (“Effective Date”)

Between:

Ayalon Highways Co. Ltd
(Hereinafter: **the "Company"**)

On the one part:

And

(Hereinafter: **the "Supplier"**)

On the second part:

- WHEREAS** Supplier has been awarded tender no.68/19 published by Company ("**Tender**") For Vehicle Occupancy Detection System, all as further detailed in the Tender and in this Agreement, as a turnkey project with full liability and end to end responsibility ("**Project**"); and
- WHEREAS** Supplier has thoroughly investigated all aspects of the Project, and the terms and conditions herein reflect the Supplier's provision for all costs and expenses related to the Project, whether direct, indirect, foreseen or unforeseen; and
- WHEREAS** Supplier and System Manufacturer (if applicable) represents that it has all the requisite experience, expertise, know-how, resources, staff, materials, qualifications, authorizations, permits and licenses and ability (including without limitation financial ability) to carry out the Project and obligations herein and grant the rights and licenses herein, at the highest professional level and in accordance with this Agreement; and
- WHEREAS** Based on the Bid and the aforementioned Supplier representations and those contained herein, the Company has decided that it wishes to retain Supplier as an independent Supplier to carry out the Project in accordance with the terms of this Agreement;

NOW, THEREFORE, the parties hereto declare, agree, and stipulate as follows:

1. Preface

- 1.1. The preface and appendices to this Agreement constitute an integral part hereof.
- 1.2. This Agreement's section titles are intended for the sake of convenience only and bear no relevance to the interpretation of this Agreement.
- 1.3. In the event of a contradiction between the provisions of this Agreement, the provisions of the Appendices hereto or any Standards, the more severe/stringent requirements shall prevail; or if not applicable then the provisions of and the SOW and/or mandatory

Standards shall prevail. To the extent that the Approved Detailed Design and/or the Supplier's Bid contain more severe/stringent requirements, such requirement shall prevail. Notwithstanding the foregoing, the determination of which requirements shall prevail shall be decided by Company in its sole discretion.

1.4. The use in this Agreement of the term "including" means "including, without limitation." The words "herein," "hereof," "hereunder" and other words of similar import refer to this Agreement as a whole, including the appendices and schedules and exhibits, as the same may from time to time be amended, modified, supplemented or restated, and not to any particular section, subsection, paragraph, subparagraph or clause contained in this Agreement

2. Definitions

In this Agreement, the following terms have the meaning herein:

"Acceptance"	shall have the meaning ascribed to it in Section 9 of the SOW.
"Agreement"	This agreement signed and executed by the Company and the Supplier, including its appendices and any future modifications in accordance with terms of Section 26.2 of this Agreement;
"Defect"	Any damage, error, defect, rejects, discrepancies, non-conformance (including, without limitations, with the requirements and/or thresholds set forth in the SOW and/or the Tender and/or the Supplier's Bid and/or the Approved Detailed Design), bug and/or failure of or caused in connection with any Project component/item, including without limitation the System, whether hardware or software, and any viruses, worms or disrupting, disabling, harming, or otherwise impeding code. The determination of whether and to what extent a Defect has occurred will be made by Company in its sole and exclusive discretion.
"Deliverables"	shall mean the deliverables (including but not limited to any underlying software in source and executable form and all components thereof) provided by Supplier to Company hereunder, including, without limitation, any work products, documentation, reports and specifications and other work products produced as a result of the work performed under this Agreement and all the information and materials created in connection with the Services.
"Detailed Design" or "Approved Detailed Design"	shall have the meaning ascribed to it in Section 7.6 below.
"Detection" or "Occupancy Detection"	Automated vehicle occupancy detection which meet all the requirements set forth in <u>Appendix A</u> .

“Documentation”

All the softcopy and hardcopy of documentation and any other documents provided from time to time by Supplier according to Company’s criteria and requirements which relate to the Project and the System, including the requirements specified in Appendix A.

“Intellectual Property Rights”

Means all worldwide (i) patents, patent applications and patent rights; (ii) rights associated with works of authorship, including copyrights, copyrights applications, copyrights restrictions, mask work rights, mask work applications and mask work registrations; (iii) rights relating to the protection of trade secrets and confidential information; (iv) rights analogous to those set forth herein and any other proprietary rights relating to intangible property; (v) trade names, together with the goodwill attached thereto, trademarks, logos, service marks, merchandise marks and brands, domain names, whether registered or not, together with all translations, adaptations, derivations and combinations thereof and all applications, registrations and renewals in connection therewith; (vi) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of Law, contract, license, or otherwise; and (vii) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing) and (viii) all divisions, continuations, renewals, reissues and extensions of the foregoing (as applicable) now existing or hereafter filed, issued, or acquired.

“Law”

All statutes, laws, by-laws, regulations, binding court precedents, directives, orders, decrees, injunctions, consents, codes, guidelines and standards, draft bills (including without limitation Israeli standards and revised sheets, environmental and other regulations, safety regulations, all the foregoing as enacted by the State of Israel or by any relevant municipality, institute, organization or authority which applies and/or is related to this Agreement and/or the Project and as may be amended or enacted, from time to time, by the State of Israel or by the relevant Israel municipality, institute, organization or authority, including without limitation any rule, principle

and/or guideline adopted under any law or by any government agency, including, without any limitation, by the Standards Institution of Israel (SII).

“MOT”	Israel Ministry of Transport and Road Safety the State of Israel.
“Project Manager”	The Company or any other individual on its behalf, as shall be designated to the Supplier in writing by the Company from time to time;
“Software System”	Software of the System which shall be licensed under this agreement and be used in connection with performing Detection in Users’ vehicles.
“Supplier’s Bid”	Any document which the Supplier submitted to the Company as part of the Tender procedure, including the Bid.
“SOW”	The Statement of Work attached as part of <u>Appendix A</u> .
"Services"	Performing Occupancy Detection, including all the services and/or goods and/or licenses (as applicable, according to the Supplier’s Bid) that is required for full operation of System that meets all the requirements detailed in the Tender Documents, and has all the features and capabilities detailed in <u>Appendix A</u> .
“System”	An advanced technological system offered by the Supplier in response to the Tender, which performs automated detection of vehicle passengers and fulfill all the functional requirements as detailed in the Tender Documents, and has all the features and capabilities detailed in <u>Appendix A</u> .
"System Manufacturer"	The entity that is the owner of the requisite intellectual property rights for granting the right to use the System.
"Tender Documents"	The documents attached as <u>Appendix D</u> .
"Trial Run"	shall have the meaning ascribed to it in Section 14 of the SOW.
“Updates”	a new version/update of the System software, that contains error fixes, maintenance, work product that corrects programming and/or design errors (usually designated by

a progressing of the release number right of the decimal point following the version initially licensed).

“Upgrades”

superseding and new releases of the then current release of the System software that add to, improve, correct or enhance existing features and capabilities of the then current release such software, including any major enhancements (which may be designated by a progressing of the release number left of the decimal point following the version initially licensed).

"User"

A Volunteer that the System has been installed in his vehicle and/or on his cellular phone.

3. The Main Principals and Responsibilities

- 3.1. **The System**. the Supplier shall supply to the Company the System as detailed in Appendix A.
- 3.2. **The Project**. Based on Supplier's representations and warranties, Company hereby appoints Supplier to execute the Project (which may include, at Company's sole discretion, the Optional Stage). Supplier hereby agrees to timely execute the Project and to carry out all obligations in connection therewith in accordance with the provisions of the Appendix A and the terms and conditions of this Agreement.

The scope of the Project is divided into few stages:

- 3.2.1. **Project Preparation**: Establishment, integration and planning of the System.
- 3.2.2. **Trial Run**: the Supplier shall Conduct a Trial Run in order to check the System performance, in which it will provide the Services in a manner that the System will perform detection for 10 Users (in 10 vehicles of Volunteers) ("**Trial Run Users**").
- 3.2.3. **The Basic Stage**: subject to the successful completion of the Trial Run, the Company will commit to purchase from the Supplier, over period of up to 6 months, the Services as required in order to operate the System in a manner that it will perform Detection for 1,000 Users (in excess of the 10 Trial Run Users) ("**Basic Stage Users**").
- 3.2.4. **The Optional Stage**: The Company will have the option to purchase each of the following optional components and services:
 - 3.2.4.1. Purchase of additional Services as required in order to operate the System in a manner that it will perform Detection for additional 9,000 Users (in excess of the Basic Stage Users) ("**Optional Stage Users**").
 - 3.2.4.2. Purchase of additional Services as required in order to operate the System in a manner that it will perform Detection for additional Users (in excess of the Basic and the Optional Stage Users) ("**Additional Users**"), at discount of 20% from the price per User proposed by the Bidder for the Optional Stage Users.

3.2.4.3. Professional Services, through highly qualified personnel detailed under Appendix B for the various purposes, as may be required by the Company, including, without limitation, for the purpose of developing interfaces to additional peripheral systems that interface with the System (“**Professional Services**”). The payment for the Professional Services will be made in accordance with the fees set forth under Appendix B. For the avoidance of doubt, it is clarified that services included in the definition of the term Services and/or the services specified in SOW shall not be considered as Professional Services and the Supplier shall not be entitled to any additional consideration for such services.

3.2.4.4. Additional Services, for implementation of the System in additional projects, other than the Experiment.

The Company will have the option to purchase each of the above optional components, in whole or in part. The purchase of each component included in the Optional Stage, in whole or in part, shall be at the Company's sole discretion and option, exercisable by Company at any time, during the Term of the Agreement, upon Company providing Supplier with a written notice, under the terms of this Agreement. Company may decide to exercise the Optional Stage in any manner or scope. Any description of the Optional Stage included herein shall not be deemed as a binding commitment by the Company to exercise the Optional Stage, in whole or in part, if any, or to purchase any of the Services included in the Optional Stage. To the extent that Company provides Supplier with a written notice pertaining to the purchase of any of the Services included in the Optional Stage and/or to any other service or product, Supplier hereby irrevocably agrees and undertakes that it shall timely execute the any part of the Optional Stage, and shall have no discretion in connection therewith.

4. Representations, Warranties and Responsibilities of the Supplier

- 4.1. The Supplier hereby declares that it has the expertise, experience, skills, personnel and professional ability to provide the Services.
- 4.2. The Supplier will provide the System and the Services to the Company according to the scope of works detailed in the SOW, the Supplier’s Bid, the Approved Detailed Design and the provisions of this Agreement, with the expertise and professionalism required by customary professional standards in the field of the Services. Additionally, the Supplier undertakes to perform all duties required to provide and perform the overall Services on time, according to the timetable detailed in the SOW.
- 4.3. The Supplier undertakes to devote its best efforts and experience to advance the Services, bearing the sole responsibility and liability for the performance and quality of the Software System ,the System and Services.
- 4.4. The Services will be performed by the Supplier as stated in the Appendix A, and a team nominated by a Supplier's qualified manager, whose identity will be approved in advance by the Company in writing.
- 4.5. The Supplier undertakes to act in good faith, decency and loyalty towards the Company and its affiliates and to refrain from doing any deed or taking any action which may harm the Company, its reputation, its business and/or the Project.

- 4.6. The Supplier undertakes to comply, act, and operate according to the procedures and guidelines provided by the Company, the Project Manager, the Company's consultants and/or anyone on their behalf, as provided from time to time, including any directive pertaining to the Services and the manner of performing thereof.
- 4.7. The Supplier undertakes to participate and take an active part in meetings conducted by the Company, the Project Manager, the Company's consultants or any other forum as per the Company's request, and/or conduct ongoing monitoring meetings led by it with all required entities, as required in order to perform the Services and according to the Company's request, from time to time.

Moreover, the Supplier shall perform the Services in cooperation and coordination with the Company's employees, consultants and other experts employed by the Company. It is hereby clarified that solely the Project Manager, is authorized to direct the Supplier on all matters pertaining to the Services.

- 4.8. The Supplier undertakes to report to the Company, the Project Manager and the Company's consultants, immediately, about any irregular incident or fact that is brought to the Supplier's attention in the course of and in connection with the provision of the Services by it.
- 4.9. The Supplier undertakes to provide the Company, the Project Manager and the Company's consultants with reports as specified in the Scope of Work, and ongoing interim reports about the progress of the Services and the findings collected by it according to the Company's request, on the dates specified in the Scope of Work.
- 4.10. The Supplier undertakes to ensure that at all times, the reports on its behalf are updated and accurate, and it undertakes to sign any and all reports prepared by it.
- 4.11. The Supplier hereby undertakes to hold presentations in English/ Hebrew to the Company, the Project Manager and/or the Company's consultants, about each part of the Services with various means and mediums as required, and submit clarifications on the findings, the considerations it takes throughout the performance of the Services and their conclusions as specified in a document it must submit, according to the Scope of Work, this Agreement and the Company's requirements and needs, from time to time at the Company's sole discretion.
- 4.12. The Supplier declares and obligates that there are no legal, contractual and/or any other limitations or obstacles, including in accordance with the Supplier's incorporation documents, to sign and execute this Agreement and/or to fulfill all of its obligations or grant the rights granted to Company under this Agreement.
- 4.13. The Supplier undertakes to provide clarifications and/or completions and/or changes and/or fixes to any documents prepared by it, as a response to any request by the Company, the Company's consultant and/or the Project Manager, within seven (7) days of receiving comments and/or a request from the Company, the Company's consultants and/or the Project Manager.
- 4.14. The Supplier hereby undertakes that documents and reports prepared and produced by it and submitted to the Company, according to the terms and conditions of this Agreement and/or the Company's directives, will be in English and according to the Company's instructions. Each document draft presented to the Company for review shall be submitted in three (3) color copies.

- 4.15. Without derogating from the aforementioned in Section 4.13, the Supplier hereby undertakes to transfer to the Company each document prepared by it by magnetic storage media, unless the Company instructs otherwise in writing.
- 4.16. The Supplier hereby undertakes to create copies and a proper backup for each document, opinion, any data base and/or any other documents prepared by it, in providing the Services in a manner that they could be restored quickly and reliably, if necessary, unless the Company instructs otherwise in writing.
- 4.17. Any and all Supplier obligations, representations, warranties and terms and conditions required of Supplier under this Agreement shall apply to all entities comprising Supplier jointly and severally and to any entity acting on its behalf, including, for the avoidance of doubt to the System Manufacturer (as defined in the Tender).
- 4.18. Supplier has thoroughly investigated and familiarized itself with all aspects of the Project and Company's existing systems and has found the foregoing suitable and sufficient to complete its obligations under this Agreement. All information provided to Company prior to signing of the Agreement, including the information detailed in the Bid, is true and complete, to the fullest extent required to perform all of Supplier's obligations, and in no way shall providing any such information derogate from Supplier's liability under this Agreement. Notwithstanding anything to the contrary, the terms and conditions herein reflect the Supplier's provision for all costs and expenses related to the Project, whether direct, indirect, foreseen or unforeseen.
- 4.19. The Supplier hereby represents that it has been provided with all the documents attached to this Agreement, it has read and understood all such documents, and has been provided all the explanations and has obtained any additional information required. Supplier represents that it has obtained and shall continue to obtain at its own responsibility and expense any and all information that may impact the implementation and execution of its obligations under this Agreement. Any implications and liabilities in connection with the foregoing information shall be at the Supplier's sole and exclusive responsibility at Supplier's sole cost and expense and Supplier hereby waives, releases and forever discharges the Company from and against any and all current and future claims in respect thereof

4.20. Safety Requirements

Without derogating and in addition to the provisions of the SOW:

- 4.20.1. The Supplier shall comply, while performing its obligations under the Agreement, with all safety regulations, rules and orders under any applicable Law.
- 4.20.2. The Supplier confirms and undertakes that It shall take all the necessary measures and precautions related to the performance of the Project in order to ensure the safety of the use of the System, and shall provide protection to prevent damage, injury or loss to the Users, the Company or anyone on its behalf, its employees and invitees, the public and other third parties, or to property, at any location where any part of the Project is carried out.
- 4.20.3. The Supplier shall be responsible for any damage, injury or loss caused to its personnel or to the Company, including its employees and invitees, the public and other third parties, property, materials as a result of or in connection with the performance of the Project.

- 4.21. Without derogating from the generality of the above, the Supplier hereby undertakes to do everything required and reasonable, that an expert would do in order to perform the Services according to this Agreement, and that it complies and will comply with all professional rules and applicable Laws and regulations.
- 4.22. The Supplier warrants that it has, and will have at all times, all permits, consents, licenses and approvals as required to fulfill its obligations under this Agreement.
- 4.23. The Supplier warrants that the System Users, Software System, Deliverables and/or the Services do not and will not infringe the rights of any third party, including without limitation any Intellectual Property Rights (defined below). The Supplier shall hold the Company harmless of all claims regarding IP proprietary rights.
- 4.24. the Company and/or its representative may visit the offices of the Supplier, subject to prior coordination, and review any relevant document, relating to the Services; and the Supplier is committed to provide this representative with any explanation required.
- 4.25. The Supplier hereby undertakes to act according to the provisions of any applicable Law, as updated from time to time. The Supplier undertakes that his personnel and/or his Subcontractor and/or any person acting on its behalf will act according to this Section.

5. Software System License and IP

- 5.1. Software System License. Supplier hereby grants Company and its affiliates (including without limitation MOT) a non-exclusive, irrevocable, royalty free, license to use the Software System and the Documentation (including without limitation all protocols, applications, platforms, codes, SDKs and technology contained therein) during the Term of the Agreement, in any location(s) in Israel.
- 5.2. Off-the-Shelf License. The System does not contain any third party software other than then third party software and off-the-shelf software set forth in Appendix A. The third party software listed in the Approved Detailed Design is sufficient for all purposes required for the Project as set forth in this Agreement and no further third party software is required. Supplier shall secure and obtain on behalf of the Company irrevocable licenses and rights for third party software as required for Company to enjoy its rights under this Section 5 and as required to fulfill its obligations under this Agreement, at Supplier's expense, including, without limitation, payment by the Supplier of all license fees and/or royalties in connection therewith, if applicable, including for the purpose of operation, maintenance, repair, and adjustments of the System. To the extent that any third party software licensed shall no longer available, Supplier shall provide Company a six months prior written notification and shall at its expense promptly replace such third party software with equivalent software, approved by the Company, that complies with all the terms and conditions of this Agreement.

6. Detailed Design

- 6.1. The Supplier shall provide the Company for its approval with the Detailed Design for the System, in compliance with the terms and conditions as set forth under the SOW.
- 6.2. If revisions to the Detailed Design, as required under the SOW, are not made by the Supplier within a reasonable time, at Company's sole discretion, Company may

terminate this Agreement without derogating from any rights and remedies available to Company by contract and/or law.

- 6.3. Neither the approval nor the disapproval of documents, including without limitation the Detailed Design, nor any objections, representations, comments or suggestions, nor any failure to make the same in relation to thereto shall relieve the Supplier in whole or in part of any duty, obligation, responsibility or liability undertaken by the Supplier in relation to the Project, or diminish or vary any such duty, obligation, responsibility or liability.
- 6.4. Neither any approval of the Detailed Design, nor the implementation of any modification as a condition to such approval, shall constitute a Change Request and no additional payment of any kind or delay in the Schedule shall be granted in respect of such approval or modification.
- 6.5. Supplier shall be solely responsible for the accuracy and for performance of the Detailed Design and any expenses incurred in connection therewith, shall be solely borne by Supplier.
- 6.6. Upon completion of the Detailed Design process, the supplier will submit for the Company approval a final version of the System Detailed Design. Subsequent to Company approval, the Detailed Design will be defined as the “**Approved Detailed Design**”, and will be attached to this Agreement as part of Appendix A, and will be used for continuation of the execution of the Project.

7. Acceptance

- 7.1. The System shall be subject to final Acceptance by Company as detailed in Appendix A.
- 7.2. As part of the Acceptance process, Company shall provide Supplier with a list of Defects that do not meet Appendix A. Supplier shall cure the Defects within the timeframe set forth in the Appendix A and re-submit the System and/or other component for re-testing, in any event, by no more than fourteen (14) days from receiving Company's list of Defects, all as detailed in Appendix A.
- 7.3. All costs incurred due to any rejection and/or repetition of the tests shall be borne by Supplier. Additional Acceptance tests shall not act as a waiver of Supplier 's obligations to meet the schedules set for the completion of the Acceptance test.
- 7.4. For the sake of clarity the processes, planning, testing and other terms and conditions (including without limitation Acceptance) set forth in this Agreement shall also apply respectively to any Optional Stage (to the extent exercised by Company) and to any System Upgrades and Change Requests.

8. Trial Run

- 8.1. The Supplier shall conduct a Trial Run in order to check the System performance, in a manner that it will perform Occupancy Detection for 10 Users, in accordance with the provisions and/or requirements set forth in Appendix A.
- 8.2. For the avoidance of doubt, the scope of the works in the Trial Run includes all that is required for full operation of the System that meets all the functional requirements

detailed in the Tender documents and has all the features and capabilities detailed in Appendix A.

- 8.3. Subject to the successful completion (as described in Appendix A) of the Trial Run, the Supplier shall be entitled to receive a predetermined lump sum of NIS 200,000 for conducting the Trial Run, as sole consideration for conducting the Trial Run.

9. Compliance Warranties

- 9.1. Supplier undertakes that the System shall be of excellent quality and standard and, to the extent applicable, shall comply with the requirements of the Israeli Law, including without limitation, Standards Regulations, and the Standards Law 5713-1953, and/or Israeli Law requirements as such exist and will exist at any time.
- 9.2. Supplier undertakes, warrants and represents that the Project, including without limitation the System will, for the Term of the Agreement commencing from each applicable Acceptance (the "**Operation Period**") perform in accordance and in compliance with all the requirements detailed in Appendix A.
- 9.3. Under no circumstances whatsoever shall any "end of life" status relating to the System and/or any components thereof and/or any Project Deliverables and/or the Services, derogate from any or all of Suppliers obligations in this Agreement.
- 9.4. Without derogating from the foregoing and/or from any rights and remedies available to Company, Supplier shall during the Operation Period: repair and/or replace any Defect and provide all works and/or services required in connection therewith, including as set forth in the SOW, at Supplier's expense, to Company's satisfaction. Supplier shall be solely responsible for all costs, fees and expenses in connection with fulfilling its obligations under this Section, including all labor, material, parts, shipping, taxes, customs and other costs, fees and expenses arising from, among other things, the removal, repair, replacement, reinstallation, inspection, shipping and testing of any defective or nonconforming items. If any such costs, fees or expenses are incurred or paid by Company, or if Company incurs increased costs as a result of Supplier's breach of warranty, Company may charge and bill such costs to Supplier, and may offset such costs against amounts otherwise due to Supplier. All costs reimbursable to Company under this Section shall be due and payable on demand.
- 9.5. Supplier hereby assigns and transfers to Company all warranties provided to Supplier with respect to the System and other Project items, or any portion thereof, and represents and warrants that such warranties are fully assignable to Company.
- 9.6. **Break & Fix Maintenance Services [Will apply if the System includes any hardware and / or physical components]**
- 9.6.1. Without derogating from any of the Supplier's obligations under this Agreement, in a case of damage to physical component of the System caused maliciously by a third party, the Supplier will provide the Company spare parts and Break & Fix maintenance services for the System according to the terms in appendix A.
- 9.6.2. The price payable by the Company for the spare part and the Break & Fix maintenance services will be the lower of: (a) 70% of the applicable services and spare part's price as reflected in the Supplier's catalog or other price list available to the public; or (b) the average consideration paid to the Supplier in the course of the 3 Lowest Price Transactions (as defined below). Upon the

Company's request the Supplier shall provide the Company with a certificate issued by the Supplier's auditor confirming the price paid pursuant to the aforesaid Lowest Price Transactions. "**Lowest Price Transactions**" means the transactions conducted in the country in which the applicable spare part is manufactured, during the year immediately prior to the applicable Company's request to provide the spare part and services, and in which the lowest price was paid to the Supplier in consideration for the applicable spare part and/or services.

- 9.6.3. The Supplier undertakes that throughout the Term of this Agreement it will hold an adequate inventory of original spare parts for all components of the System, in a manner that will allow it to comply with all of its obligations and undertakings under this Agreement.
- 9.6.4. For the avoidance of doubt, it is clarified that the provisions of this Section 9.6 shall not apply in the event of any other damage other than damage caused maliciously by a third party, including without limitation, in the event of Defective components of the System and/or "end of life" status relating to the System and/or any components of the System and/or any noncompliance with the requirements set forth in Appendix A (which shall be deemed a damage to be remedied by Supplier at Supplier's sole expense, as part of the Services, and the Supplier shall not be entitled to any additional consideration for such services). The Supplier shall have the burden of proving that a damage to a physical component of the System caused maliciously by a third party.

10. Supplier's personnel

- 10.1. The Supplier undertakes to perform the Services by itself and using experienced, responsible, and professional personnel who are able to meet the requirements of the Appendix A while providing the Services, in the quality required therein and within the timetables set forth therein. This is without derogating from the overall responsibility and liability of the Supplier for the quality of the Services executed by it, as well as the quality of the System Users and the Software System and all its other obligations under this Agreement.
- 10.2. The Company shall be entitled to demand from the Supplier, at any time, by written notice, to replace any employee, person or entity employed by it in performance of the Supplier's Services, and the Supplier undertakes to replace such employee, person and/or entity with an appropriate person or entity, with at least equivalent skills and abilities, as soon as possible, and no later than 14 days following the Company's first demand. It is clarified, that the Supplier must receive the Company's prior written approval for the substitutive employee, person and/or entity.
- 10.3. Supplier shall comply with all the requirements of the Israeli Law regarding the employment of the employees in Israel.

11. Subcontractors

- 11.1. Supplier shall sub-contract or assign the part of the Services relating to the System Manufacturer (or Related Entities, if applicable) to the System Manufacturer (or Related Entities, if applicable) which will provide such services, as described in the Supplier's Bid, and according to the System Manufacturer Undertaking attached hereto as Appendix E.

- 11.2. Except for the above, Supplier shall not sub-contract or assign any part of the Services without the explicit prior written consent of the Company, which shall be at the Company's sole discretion. It is clarified that no delay in Schedule shall be granted in the event of refusal by the Company to grant such consent. Supplier shall provide Company with all applicable information regarding such Subcontractors.
- 11.3. Without derogating from the aforementioned, the Supplier shall list Subcontractors it wishes to engage in connection with execution of the Project, the nature and scope of the engagement, the Subcontractor's experience to be assigned to them and methods of inspection.
- 11.4. Neither the approval of any Subcontractor by the Company nor any subcontract executed by the Supplier shall relieve the Supplier from any of its liabilities under the Agreement. The Supplier shall be fully responsible for the acts and omissions of all of its Subcontractors, including their employees or workmen.
- 11.5. Supplier shall ensure that any permitted subcontracting shall be made by Supplier under a written agreement between Supplier and the applicable Subcontractor, which stipulates, *inter alia*, that the Subcontractor shall: (i) protect Company, the Project and any Intellectual Property Rights in connection therewith to at least the same degree as the terms and conditions of this Agreement and shall contain at the least terms and conditions not less restrictive than those set forth under this Agreement ('**Subcontract Terms**'); (ii) permit Supplier and/or Company to immediately terminate the said subcontract agreement for violation or breach of any of the Subcontract Terms and otherwise terminate such agreement upon termination or expiration of this Agreement for any reason; (iii) ensure that all representations and warranties made towards Supplier by any Subcontractor and/or Staff shall be valid and apply towards the Company as a third party beneficiary; and (iv) ensure that the Company shall not be bound or liable towards any Subcontractor and/or Staff. The Supplier undertakes to provide the Company with the foregoing subcontract agreement, immediately upon request.
- 11.6. For the sake of clarity, Subcontractors shall enter into contractual relationship only with Supplier and shall be paid only by the Supplier. The Supplier shall hold harmless and indemnify the Company from any claims, proceedings, damages, costs, charges and expenses arising out of or in connection with the Work performed by the Subcontractors and/or any claims made by Subcontractors.
- 11.7. Supplier shall remain fully responsible for the performance of the subcontracted parts of the Work, and for the cooperation and coordination between the Subcontractors to whom any part of the Work are assigned, and Supplier shall remain liable for its Subcontractors compliance with the terms hereof and for any and all of their acts and omissions. Nothing herein contained shall be deemed as Company granting any right to Subcontractors or any third party by reason of this Agreement or by Company approving any such Subcontractor.
- 11.8. In the event that the Company shall determine, at its sole discretion, that any Subcontractor and/or any person acting on its behalf is not suitable to conduct the Work, Company may instruct their restriction of the Project, and the Supplier shall duly comply with such instruction at its own expense. In this event, the Supplier shall conduct the Work itself or promptly and no later than seven (7) Business days find a suitable replacement pre-approved in writing by Company.

- 11.9. Supplier, at its own expense, shall obtain, maintain and renew all permits, licenses or consents required by any applicable Law in connection with the performance of the obligations under this Agreement and for the execution of the Project including by Subcontractors. Supplier shall indemnify and hold Company harmless from and against any failure to obtain, maintain or renew such permits, licenses or consents to the extent necessary to perform its obligations under this Agreement and/or any claims from Subcontractors and/or any third parties in connection with such Subcontractor's acts and omissions.

12. The Term of the Agreement

This Agreement shall remain in full force and effect for a period of three (3) years following the Effective Date, unless earlier terminated in accordance with this Agreement (“**Initial Term**”). Thereafter, the Initial Term of the Agreement may be extended for additional seven (7) periods of up to one (1) years each (each, a “**Renewal Period**”), upon the Company's written notice (the Initial Term and any Renewal Period, hereinafter together the: “**Term**”).

13. The Consideration

13.1. The consideration for which the Supplier shall be entitled to for performing the Services, and the payment terms of the consideration shall be as specified in Appendix B of the Agreement (the “**Consideration**”). The Consideration will be paid by the Company in New Israeli Shekel.

13.2. Consideration for Completion of System Development. As full and final consideration for fulfillment of all Supplier's obligations in connection with the completion of System development, in accordance with the provisions as set forth in Appendix A, the Company shall pay the Supplier, fixed and one-time consideration in the amount set forth under Appendix B. Such payment shall become due upon within 45 days from the date in which the Company will provide the Supplier with a written approval regarding the completion of System development.

[This Section shall apply in the event that the Supplier asked for Company's participation, as defined in Section 6.8 of the Tender Conditions and Instructions]

13.3. Payment for Completion of the Trial Run. The Supplier shall be entitled to consideration for completion of the Trial Run as stated in Section 8.3 above.

13.4. Payment for Licenses and Rights to Use the System. *[This Section shall apply in case that the System Manufacturer require such payment for license according to its licensing terms. In such case].*

The payment for licenses and rights to use the System during the Term of the Agreement in accordance with the provisions of Section 5, shall be provided in consideration for fixed and one-time consideration in the amount set forth under Appendix B. Such payment shall become due upon within 45 days from the date of the completion of the Trial Run, or 45 days from the date in which the Company will provide the Supplier with a written notice pertaining to the purchase the Services in respect of the Optional Users (as applicable).

13.5. Payment for the Provision of the Services Per User. The payment for the provision of the Services per User, including annual licenses and rights to use the System in accordance with the provisions of Section 5, shall be provided in consideration for the amounts set forth under Appendix B, according to the number of Users which the System performs Occupancy Detection in their vehicle in each calendar month.

- 13.6. Payment for Professional Services. The payment for the Professional Services as set forth under Section 3.2.4.3 above shall be provided in consideration for the amount set forth under Appendix B, shall become due upon the end of the month in which the applicable Professional Services were provided.
- 13.7. Invoicing
- 13.7.1. The Supplier will submit to the Company an invoice upon completion of each of the consideration components detailed above together with a summary report for the relevant month, for the amounts it is entitled to for the relevant month, according to the payment schedule stated above. The Supplier will not be entitled to any supplement not requested in the invoice as stated.
- 13.7.2. An invoice for each month will be submitted to the Company within fifteen (15) days from the end of the relevant month.
- 13.7.3. Subject to the approval of the invoice submitted to the Company by the Supplier, the Company shall pay the Supplier the sum of the invoice at the 10th or the 25th of the month, whichever is the earlier, provided that such day is no less than 45 days after the day the Supplier submitted the invoice.
- 13.8. The Consideration shall include all taxes, levies and charges however designated and levied by any state, local, or government agency. The Supplier shall be responsible for the payment of all taxes, levies and charges in connection with this Agreement, whosoever levied, except for VAT, payable as follows:
- If the Supplier is a company registered outside of Israel, VAT will be paid to the Israel Tax Authority directly by the Company.
- If the Supplier is a company registered in Israel, VAT will be paid to the Israel Tax Authority directly by the Supplier.
- 13.9. Any additional tax amounts and other payments lawfully required under Israeli law, if applicable, will be withheld by law from any amount the Company will pay the Supplier, under the provisions of this Agreement, unless the Supplier will provide a confirmation of withholding tax exemption as stated. For the avoidance of doubt, it is declared and clarified that this Section refers to deductions required by payments to an independent Supplier only.
- 13.10. The Consideration covers all payments and benefits of any kind to which the Supplier is entitled to from the Company, and the Supplier will not be entitled to, and shall not require any payment and/or benefit from the Company, unless explicitly specified in this Agreement and/or if agreed in writing that it is entitled hereto.
- 13.11. VAT in connection with the Consideration shall be paid in accordance with applicable law. Without derogation from the generality of the provision that all taxes payable in connection with the Consideration (other than VAT) shall be borne and be paid by the Supplier, for the avoidance of doubt it being clarified that same will also apply, without limitation, to all jurisdictions, including the laws of the state of incorporation and/or residence of the Supplier.
- 13.12. the Company shall be entitled to deduct from any payment due to the Supplier, all withholding taxes which may be applicable to such payment and/or to the Supplier and the Company's determination in this respect shall prevail, subject to the duly and timely delivery by Supplier to the Company of a certificate issued by the Israeli Tax

Authority to the extent that such payment is fully exempted from all such withholding taxes.

Without derogation to the generality of the above, the Supplier shall provide to the Company, at its sole responsibility and expenses, and as a precondition to any payment, a certificate from the Israeli Tax Authority approving the transfer of any such payment from the Company to the Supplier's bank account.

13.13. Except as expressly agreed otherwise in writing by Company, Supplier shall bear all of its own expenses arising from its performance or its obligations under this Agreement.

14. Royalties *[shall apply in the event that the Supplier asked for Company's participation, as defined in Section 6.8 of the Tender Conditions and Instructions]*

14.1. In accordance with the Supplier's Bid, the Supplier shall pay the Company royalties equal to _____% of the gross sales price in respect of any benefit which will accrue to the Supplier, directly and/or indirectly, from the use and/or sale and/or license of the System or of any component of the System and/or in any other form whatsoever in Israel or outside of Israel ("**Royalties**").

14.2. The Royalties shall be payable quarterly on the 15th day of each of January, April, July and October (as to sales accrued during the preceding calendar quarter) during the Term.

14.3. Royalties payments to the Company shall be submitted with supporting documentation as to (i) volumes of System's (or any component of the System) gross sales produced during the relevant period, confirmed by the Supplier's auditor; and (ii) the gross sales price as to each relevant sale of the System (or any component of the System).

14.4. Failure to make any Royalties payment due shall constitute a right of the Company to offset and deduct any amount which it deserves from the Supplier, from the amounts which the Supplier deserves according to this Agreement and/or terminate this Agreement.

15. Change Request

15.1. Company shall have the right to request, in writing, that changes, enhancements and/or supplements shall be made to the Project in whole or in part including without limitation to the Approved Detailed Design and the System ("**Change Request**").

15.2. Following the receipt of a Change Request, Supplier shall inform Company in writing, within fourteen (14) Business Days as of Company's Change Request: as to all the costs involved in the performance of such Change Request; and provide Company with a detailed description of the works, Deliverables; the schedule and timeframe for completion of such Change Request, anticipated impact on the entire System, detailed pricing (including material and manpower and all documentation and information as required by Company in connection therewith. Supplier shall not begin the performance of any Change Request before Company has submitted in writing to the aforesaid it.

15.3. Fulfillment of each Change Request shall be subject to the terms and conditions of this Agreement, including without limitation: testing, planning and Company approvals and Acceptance. All Deliverables in connection with any Change Request shall be deemed as part of the Project and subject to the terms of this Agreement.

- 15.4. For the sake of clarity, any Change Requests materially within the scope of the Appendix A and/or required as remedial works pursuant to a Defect and/or as Updates and/or Upgrades and/or required for Acceptance and/or for compliance with the terms of this Agreement and/or daily works shall not be deemed as a Change Request and shall not require additional payment. In the event of any *bona fide* controversy between the Parties whether a certain task should be considered as a Change Request, such controversy will not withhold or delay the performance of such action by Supplier, to the extent required by Company in writing despite the controversy, provided that any non-disputed amount will be duly and timely paid. Exercise of Optional Stage (in any quantities whatsoever) shall not be deemed as a Change Request even if entitled as such. Without derogating from the foregoing, Change Requests may be required at any given time.
- 15.5. Company retains the right and option to reject a Supplier 's proposal in connection with any Change Request, and to implement the change through a third party in which case Supplier shall then cooperate with any such third party including as required to provide integration services and transfer to maintenance.

16. Agreement Delay and Termination Events

- 16.1. The Company is entitled to suspend this Agreement or to terminate it at its absolute discretion, subject to prior notice to the Supplier of 90 days, in any case, without the Supplier having any claim and/or demand against the Company.
- 16.2. The Company shall notify the Supplier in writing about its decision as stated. The date of suspension or termination shall be as specified in the notice.
- 16.3. Upon termination and/or suspension of this Agreement, Supplier shall promptly deliver to Company all Deliverables created prior to termination or suspension (as the case may be. Supplier shall also, at Company's option, either deliver to Company or delete/destroy all Confidential Information in its possession or under its control, in any media or form whatsoever. The provisions of Sections 1, 5, 9, 13, 14 and 16-26 shall survive termination or suspension of this Agreement and shall remain in full force and effect in perpetuity.
- 16.4. In the event the Company decides on the suspension or termination of this Agreement, the Supplier will be entitled to Consideration solely for the Services actually performed by it until the date of termination or suspension (as the case may be), and the Company will not be indebted by any compensation, reward or any other payment for, or in connection with the suspension or termination of this Agreement, except for compensation due to expenses pre-approved in writing by Company that were already incurred by the Supplier for the purpose of executing the Services, that are to Company's full satisfaction; provided that the Supplier provides Company with a valid receipt thereof.
- 16.5. Without derogating from the generality of the foregoing, it is hereby agreed that the Company will have the right, at its sole discretion, to terminate the Agreement immediately in case a temporary liquidator and/or a temporary receiver is appointed to the Supplier and/or if declared as insolvent or legally incompetent, and the Supplier shall have no claim and/or demand towards the Company with respect thereto.
- 16.6. The Supplier declares that if the Agreement is terminated as stated under this Section 11 above, then it hereby gives its consent to transfer the continuation of the Services

to any other supplier designated by Company and at the Company's sole discretion. Any controversy regarding the consideration, as stated in Section 16 above and/or in any other matter, will not delay the transfer of the Services to another supplier, including transfer of all licenses, permits, consents and approvals necessary for the operation and continuation of the Services for the benefit of the Company or any other entity on its behalf.

- 16.7. In a case of termination of the Agreement as stated above, the Supplier undertakes to cooperate with the Company and the new supplier selected by the Company as much as may be required, and transfer the Work to that the new supplier in an orderly manner and as quickly as possible.

17. Confidential Information

- 17.1. Supplier shall keep in strict confidence and trust, shall safeguard, and shall not disclose to any person or entity, nor use for the benefit of any party other than Company, any Confidential Information, other than with the prior express written consent of Company. All right, title and interest in and to Confidential Information are and shall remain the sole and exclusive property of Company or, if applicable, the third party providing such Confidential Information to Company. "**Confidential Information**" means information, in any form or media, that relates to Company, its business, assets, financial condition, activities, software, technology, products, plans and projections, customers, suppliers, partners, and other third parties with whom Company has agreed to hold information of such party in confidence and shall include, without limitation, Deliverables, the terms of this Agreement and any other information that relates to the Company, whether or not marked or designated as confidential. Confidential information shall not include any information known generally to the public or ascertainable from public or published information, other than as a result of unauthorized disclosure by Supplier.

18. Conflict of Interest Prohibition

- 18.1. The Supplier hereby declares that it has no any conflict of interest between any other activity and/or its other obligations and/or any of its employees and the obligations and rights under this Agreement.
- 18.2. The Supplier hereby undertakes to refrain from any action that may involve any conflict of interest between performing its duties under this Agreement, and performing any other duty and/or commitment of the Supplier and/or its employees, directly and/or indirectly, and it hereby undertakes to inform the Company about any concern for conflict of interest between its obligations and/or the obligations of any of its employees under this Agreement and other activities of his and/or of its employees, and it undertakes to act in accordance with the Company's instructions to prevent such conflict of interest.

19. Independent Supplier

- 19.1. The Supplier declares and confirms that it is an independent Supplier of Company under this Agreement and nothing herein shall be construed to create JV, partnership or an employer/employee relationship. The Supplier and its employees will not be considered the Company's employees in any case and under any circumstances. For the avoidance of doubt it is hereby clarified explicitly, that in this Agreement, employer-employee relationships are not created between the Company and the Supplier, and not between the Company and any of the Supplier's employees and/or

its Subcontractors and/or any person acting in its name or on its behalf in connection with this Agreement, as an agent, Supplier or any other status. Any right of the Company to order, supervise, or instruct the Supplier and/or its employees and/or its Subcontractors in the performance of this Agreement, does not create employer-employee relations.

- 19.2. The Supplier undertakes to pay all taxes, levies, labor costs and expenses and all other mandatory payments imposed on it, including without limitation, income tax, and VAT.
- 19.3. The Supplier alone will be responsible for any payment for damage indemnity or compensation or any other payment due by it under any Law to the people employed by it.
- 19.4. Without derogating from the generality of the above, in case any authority determines that despite the provisions of Sections 19.1 and 19.3 above, employer-employee relations existed between the Supplier and/or any of its employees and/or its shareholders and the Company, the consideration described in Section 13 above will be considered as including any payment, of any kind whatsoever required by Law and/or agreement and/or arrangement and/or practice and/or custom between employer-employee including, without derogating from the generality of the above, provisions for compensations and rewards, vacation pay, travel allowance, annual leave, etc., and the Company shall not bear any additional payment on account of these.
- 19.5. In addition to the above, the Supplier will indemnify, hold harmless and at the Company's first request defend Company, its affiliates and their officers, directors, agents and employees, against all claims, liabilities, damages, losses and expenses, including attorneys' fees, arising out of or in any way connected with or based on a determination by a competent authority that is contrary to Section 19.1 above and/or any claim, demand or allegation by Supplier's employees, consultants or Subcontractors, including without limitation in respect of any labor Law issues, payment, royalties, pension, social security, insurance, sick days, overtime, holidays, etc.

20. Liability and Insurance

- 20.1. The Supplier will be responsible towards the Company and towards any third party to perform the entire Services; i.e., the Services performed, directly and/or indirectly, under its supervision will be executed in the best reasonable manner and reasonably high expertise, as required by this Agreement and under any Law.
- 20.2. The Supplier shall be solely liable for damages caused in connection with the Services for any reason. The Supplier shall be held liable for any damages – whether bodily harm or property damages or any other expense, which may be caused to the Company and/or its representatives and/or to the Supplier itself and/or its representatives and/or any other third party, as result of an act or omission of the Supplier, and/or its representatives during the performance of the Services and/or in connection with the Project and/or resulting from breach of any obligation under this Agreement and/or any obligations under Law.
- 20.3. The Company shall be exempt from any liability for damages, whether bodily harm or property damages – which shall be caused to the Supplier or its employees or to any one else acting for it or on its behalf, or their agents, during or following

performance of the Project and/or resulting from the defective performance of the Services. If liability shall be imposed upon Company for damages aforementioned in this Section – the Supplier shall indemnify, defend and hold the Company harmless from and against any loss, damage and expense, including attorney fees.

- 20.4. Supplier shall be solely liable for the integrity of the System and the Services and in any case of damage, due to any reason and Supplier shall repair the damage at its expense, as soon as possible, in a manner that after repairing the damage, the System shall be in good condition and comply with all the requirements set forth in this Agreement.
- 20.5. It is hereby conditioned that any authorization given to Supplier by the Company and/or the Project Manager and/or their assigns shall not in any way impose liability upon the Company and/or the Project Manager and/or anyone else acting for it or on its behalf and/or exempt Supplier from liability and/or diminish its liabilities in accordance with the Agreement and/or by Law.
- 20.6. If any consideration is paid according to this Agreement, and/or in the event the Company approved documents and/or presentations related to the Services, which were prepared by the Supplier according to this Agreement, or according to the requirements of the Company and/or the Project Manager – the said payment of consideration and/or the said approval will not free the Supplier from its professional responsibility and liability on account of the Services, the Software System or any part thereof, and their quality.
- 20.7. Supplier shall indemnify, hold harmless, and at Company's first request, defend Company, its affiliates and their officers, directors, agents and employees, against all claims, liabilities, damages, losses and expenses, including attorneys' fees, arising out of or in any way connected with or based on: (i) the Services (ii) any claims by a third party alleging that the Services, the Deliverables, the System Software or any part thereof infringe any right of a third party, including Intellectual Property Rights; (iii) Supplier's breach of this Agreement; and provided that the Company informed the Supplier about the claim within a reasonable period of time from the date of filing the claim, and subject to the fact that the Supplier was given the option to take part in the negotiations for compromise and/or in the defense against the claim.
- 20.8. Without derogating from the Supplier's liability under this Agreement and/or any Law, the Supplier hereby declares that it has obtained insurance policies as set forth below, in a reputable insurance company, to protect itself, its partners, any person or entity under its service or employed by it as well as the Company and the Project Manager and any one on Company's behalf (hereinafter together will be referred as "Company") in the following Insurance clauses:
 - 20.8.1. **Liability to third parties:**

Third Party Liability Insurance for bodily injury and/or property damage and any ensuing loss incurred during the period of performing the Services within liability limits no less than \$1,000,000 (one million US Dollar) for each occurrence and in the aggregate for any annual period of insurance. The insurance is extended to indemnify the Company in respect of liability which is imposed on the Company for the errors and/or omissions of the Supplier and/or any party acting on behalf of the Supplier and this subject to a cross liability clause.

20.8.2. **Employer's Liability Insurance:**

Liability to employees for bodily injury caused during the period of performance, throughout and due to performing the Services, is within liability limits of \$5,000,000 (five million US Dollar), per event and in the aggregate for any annual period of insurance. The insurance is extended to indemnify the Company if it is determined that due to the occurrence of the work accident and/or occupational disease, the Company is liable in any manner as an employer of the Supplier's employees.

20.8.3. **Worker's Compensation Insurance** or any other similar form of employees social insurance which is required pursuant to any local employment Law.

20.8.4. **Professional Indemnity Liability Insurance:**

The professional liability of the Supplier on account of an act of negligence, error or omission, is within liability limits of no less than \$1,000,000 (One million US Dollar) per event and in the aggregate for any annual period of insurance. The insurance will not include a limitation for dishonesty of employees, loss of documents, loss of use and delay. The insurance is extended to indemnify the Company in respect of liability which is imposed on the Company due to the errors or omissions of the Supplier or of any party acting on behalf and this without derogating from the insurance covering the liability of the Supplier towards the Company.

The insurance includes an extension in respect of a breach of intellectual property rights, breach of the duty of confidentiality, breach of the Law of Privacy and liability due to the unintentional distribution of viruses. The insurance does not contain any exclusion regarding damage or harm to databases, software, hardware and internet sites.

20.8.5. **Product Liability Insurance:**

with limits of liability of not less than US\$ 1,000,000 per event and in the aggregate per annum, covering the Supplier's legal liability resulting from bodily injury and/or property damage caused in connection with any completed operation or product manufactured, repaired, installed, supplied, sold marketed or handled in any other way by the Supplier or anyone on its behalf. The policy includes a retroactive date not later than the commencement of the services in this Agreement. The policy also includes an extended reporting period of at least 12 months years after non-renewal or termination of such policy. The Policy is extended to include Company as an additional Insured in respect of the Company's liability resulting from the applications and/or other customer' products and/or the services, subject to a Cross Liability clause.

20.8.6. General terms and conditions that apply to the Supplier's insurance Policies:

20.8.6.1. Policies include a waiver of subrogation clause towards the Company and any other party on behalf of the Company however such a waiver shall not apply towards a person committing a malicious act.

- 20.8.6.2. Policies include 60 days written notice of cancellation or reduction in coverage in writing by registered mail to the Company
- 20.8.6.3. breach of policy terms and conditions by Supplier shall not derogated from The Company's and/or the Additional Parties rights according to such Policies.
- 20.8.6.4. Supplier's Policies are primary and non-contributory to any of the Company's insurance Policies and insurers waives any right of contribution or double insurance requirement from the Company.
- 20.8.6.5. Supplier will pay all related premium payments and deductibles listed in the insurance Policies
- 20.8.7. Any other insurance required under any applicable Law.
- 20.9. The Supplier undertakes to maintain the Professional Indemnity Liability insurance and the Product Liability insurance for as long as its liability exists under this Agreement and/or under any Law.
- 20.10. The Supplier's insurances will include an explicit term upon which the insurer is not entitled to revoke them and/or reduce their scope, unless the insurer and/or the Supplier delivers a notice of its intention to do so, by registered mail to the Company, sixty (60) days in advance.
- 20.11. Prior to Services being rendered to the Company the Supplier undertakes to provide the Company with a certification of insurance evidencing compliance with this Agreement, the certificate shall be signed by the insurer or Supplier's insurance broker, to the extent the broker is authorized to do so. The parties stipulate and agree that procurement of insurance Policies by Supplier and providing a certificate of insurance as evidence of coverage is in force represent a fundamental condition in this Agreement, none procurement is considered a fundamental breach of this Agreement.
- 20.12. The Supplier is required to provide the Company any and all signed insurances certificates.
- 20.13. In any case of discrepancy between the provisions of any Supplier's insurances certificates, and the provisions of this Agreement, the Supplier undertakes, to the Company's demand, to make changes to the insurances in order to match the provisions of this Agreement within seven (7) days of the Company's first request. It is specifically agreed hereby, that obtaining such insurances, providing the certificates and/or changing them shall not be considered as an approval of their suitability, and any responsibility shall not to be imposed on the Company and/or reduce the responsibility of the Supplier under this Agreement, the Tender and/or by any applicable Law.
- 20.14. The Supplier undertakes to comply with the terms of all insurances formulated according to this Agreement.
- 20.15. The Supplier exempts the Company and any party acting on the Company's behalf from liability for any loss or damage to property or equipment of any type which is brought by the Supplier or any party acting on behalf of the Supplier into the premises of the Company or which serves the Supplier for the purpose of providing the

services, and the Supplier will not have any allegation, demand or claim against the aforementioned parties for any loss and/or damage as aforementioned. The aforementioned exemption will not apply to anyone who causes malicious damage.

20.16. Without derogating from any of the provisions of this Agreement regarding assignment of the Agreement, and in the event that the services addressed by this Agreement or any part thereof are provided by Subcontractors on behalf of the Supplier, the Supplier must ensure that the Subcontractors hold suitable insurance policies depending on the nature and scope of the services. Alternatively, the Supplier will be entitled to include the Subcontractors in the named insured under the policies arranged by the Supplier as stated above.

21. Guarantees

To ensure any and all undertakings of the Supplier, its Personnel and Subcontractors, upon the Effective Date the Supplier shall obtain and deliver to the Company, an unconditional bank guarantee issued by a recognized Israeli banking institution, or by a reputable international bank having S&P rating of at least AA (or an equivalent rating assigned by one of the other "Big Three" credit rating agencies) which will be approved by the Company in advance, payable to the Company according in a form reasonably satisfactory to the Company, which shall remain in full force and effect at least until 60 days after the applicable end of the Term, in a sum equal to 5% of the total Consideration payable for the Project (as defined above, in accordance with the relevant stage) ("**Performance Guarantee**"). The Performance Guarantee shall serve as security and a guarantee for all of the Supplier's obligations hereunder, including, but not limited to, material breach, liquidated damages for delays and failure to meet minimum service level (as defined in the SLA). The Performance Guarantee shall be renewed at least sixty (60) days prior the date on which it is scheduled to expire, and shall remain in full force and effect at least until the end of the Term (including, for the avoidance of doubt, any extension thereof).

22. Assignment and Subcontracting

- 22.1. The Company may assign its rights and obligations under the Agreement, in whole and/or in part, to the State of Israel and/or MOT.
- 22.2. The Supplier may not assign, pledge, transfer or dispose any of its rights and obligations, and shall not sublicense the software provided to the Company under this Agreement and/or any part thereof to any third party.
- 22.3. The obligations of Supplier under this Agreement may not be subcontracted by Supplier, in whole or in part without the written consent of the Company.

23. Contradiction between Documents

- 23.1. In any case of contradiction between the Appendices and any provisions of the Agreement, the provisions of the Appendices will prevail over the provisions of this Agreement with respect to the particular contradicted subject matter.
- 23.2. Each of the provisions of this Agreement is independent and severable from the remaining provisions and enforceable accordingly. In a case that any provision of this Agreement shall be unenforceable for any reason but would be enforceable if part of the wording thereof were deleted, it shall apply with such deletions as may be necessary to make it enforceable.

24. Violations and Remedies

- 24.1. Violation of any of Sections 3, 4, 5, 6, 7, 8, 9, 13, 14, 17, 18, 19, 20 , 21, 22 will be deemed a material breach of this Agreement.
- 24.2. In a case the Supplier violates one or more of its obligations under this Agreement, it will have to pay the Company compensations for the damages, losses and expenses incurred to the Company as a result of said violation, and this is in addition to and without derogating from the Company's right under any Law and in accordance with this Agreement.
- 24.3. For the avoidance of doubt, and without affecting the Company's rights according to this Agreement and under any Law, it is hereby agreed that the Company will be permitted to offset and deduct any amount which it deserves from the Supplier, from the amounts which the Supplier deserves according to this Agreement.
- 24.4. The Supplier has no lien right in or over the Services and/or in Company IPR and/or in any document including report and/or any Confidential Information stored on magnetic media related to performance of the Services.
- 24.5. Liquidated Damages

In the event of failure to conform with the Service level, as defined in Section 17 of the SOW ("SLA"), the Company will have the right to deduct the sums mentioned in the SLA from the payments which the supplier is entitled according to this Agreement.

25. Law and Jurisdiction

This Agreement shall be governed by and construed according to the Laws of the State of Israel, without regard to the conflict of Laws provisions thereof. Any dispute arising under or in relation to this Agreement shall be resolved in the competent courts of Tel-Aviv, and each of the parties hereby agrees irrevocably to the exclusive jurisdiction of such courts.

26. Miscellaneous

- 26.1. This Agreement covers the agreed between the parties, and there will be no relevance to any negotiation, statement, representation, obligation and/or consent, which were made, if they did, either in writing or orally between the parties, beyond the execution of this Agreement, with the exception of Section 26.2 hereinafter.
- 26.2. There will be no validity to any change in this Agreement or any of its provisions, unless made in writing and signed by all the parties to this Agreement.
- 26.3. The conduct of either party will not be considered as a consent and/or waiver of any rights under this Agreement and/or under any Law, unless the consent and/or waiver are done in writing.

27. Notices

- 27.1. According to this Agreement, each notice shall be delivered by hand delivery in exchange for a certificate of approval, or by delivery by registered mail or by e-mail or by facsimile addressed to the Company or the counselors (as applicable), according to the addresses in the title.
- 27.2. Any notice which will be delivered by hand, or sent by e-mail or sent by facsimile will be considered as if it was provided at the time of delivery. Any notice sent by registered mail will be considered as if provided five (5) days after delivery and any notice sent by facsimile shall be considered as if provided 24 hours after delivery and

on the condition that the fax reception was approved by phone. The sender will keep the approvals about the delivery of the notices.

IN WITNESS WHEREOF, the parties hereto have undersigned:

Ayalon Highways Co. Ltd

The Supplier

Supplier signature approval

I, the undersigned, _____, attorney at law, from _____ hereby certify that the signature of the _____ obligates the Supplier for all intents and purposes.

Date

Attorney

Appendix A

**Scope of Work, Approved Detailed Design and the
Supplier's Bid**

[To be attached]

Appendix B

Price Proposal, Consideration & Payment Terms

For the implementation of the Services, the Supplier will be entitled for Consideration in accordance with the Supplier's Price proposal, as detailed below:

[Shall be completed according to the Supplier's Price proposal]

#	Portion of the Consideration	Price per Unit	Notes
1	Consideration for System Development		fixed and one-time payment. shall apply in the event that the Supplier asked for Company's participation, as defined in Section 6.8 of the Tender conditions and instructions
2	One time Consideration for licenses and rights to use the System during the Term of the Agreement		fixed and one-time consideration for licenses and rights to use the System during the Term of the Agreement, as detailed in the Agreement (if applicable, according to the System Manufacturer licensing terms) for up to 1,000 Users
			fixed and one-time consideration for licenses and rights to use the System during the Term of the Agreement, as detailed in the Agreement (if applicable, according to the System Manufacturer licensing terms) for up to 10,000 Users
3	Annual Consideration for the provision of the Services per Basic Stage User (up to 1,000 Users)		price for one Basic Stage User
4	Annual Consideration for the provision of the Services per Optional Stage User (up to 9,000 Users)		price for one Basic Stage User

1. The price for licenses and rights to use the System during the Term of the Agreement for up to 10,000 users, after deduction of a 20% discount, shall be the price for licenses and rights to use the System during the Term of the Agreement for more than 10,000 Users, pro-rata, according to the number of Users.

2. The price for Optional Stage User, after deduction of a 20% discount, shall be the price for Additional User (in excess of the Basic and the Optional Stage Users).
3. Fees for Professional Services

Service Provider	Price per Hour (\$ US)
Expert on behalf of the manufacturer – remote work	100
Expert on behalf of the manufacturer – work in Israel	150
Project Manager	80
Architect	60
Programmer	50
Technical Instructor	40
Technician	40

4. All prices are not inclusive of VAT.
5. In case the Supplier makes any expenses in connection with the performance of this Agreement for any reason whatsoever, including subsistence and other expenses, which expense are not mentioned above, or without the prior written consent of the Company and/or the Project Manager, the Supplier will not be eligible to request a refund of the expenses from the Company and the Supplier hereby waives any claim or action in this regard.
6. The Supplier declares that the Consideration as defined in the Supplier's proposal, as may be applicable, is complete and final and includes all the Supplier's expenses, including but not limited to, compulsory payments, commissions to local bodies, travel expenses, office and similar expenses and includes all payments and/or other benefits of any sort that the Supplier will be entitled to from the Company in consideration for the complete performance of the Supplier's Services. The Supplier shall not be entitled nor may it demand any payment and/or benefit from the Company unless specifically specified in the Agreement and/or agreed upon in writing.
7. The Consideration shall be paid by the Company to the Supplier in accordance with the provisions set out in this Appendix, following the submission of a duly invoice, which will be deemed as having been submitted at the beginning of the following month and will be paid within forty five (45) days from the beginning of the said following month. The Consideration, will be paid by the Company in NIS.

Appendix C

Declaration and Obligation of No Conflict of Interest

To

Ayalon Highways Co. Ltd

Dear Sir / Madam,

Re: Irrevocable Declaration and Obligation of No Conflict of Interest

I, the undersigned, [REDACTED] carrier of ID/Passport No. [REDACTED], employee / an external expert of [REDACTED] (hereinafter: the "**Supplier**") which provides services to Ayalon Highways Co. Ltd (hereinafter: the "**Company**"), by an agreement signed between them (hereinafter: the "**Agreement**"), hereby declare as follows:

1. At the time of signing the Agreement there is no conflict of interest between any other activity and obligation of mine and between the Supplier obligations under the Agreement.
2. I will refrain from any activity that involves a conflict of interest between fulfilling my functions as an employee of the Supplier under the Agreement and between the performance of a function and/or other obligation of the Supplier, directly and/or indirectly, and I hereby undertake to notify the Supplier and the Company of any concern regarding a conflict of interest between my obligations as an employee of the Supplier under the Agreement and between other activity of mine, and I undertake to act in accordance with the Company's instructions to prevent such conflict of interest.
3. I hereby declare that it was made clear to me and that I am aware that I will not be allowed to participate, directly and/or indirectly, by myself and/or as a partner and/or as a Supplier or otherwise, with any entity who will participate and/or compete in connection with future tenders for the designing, implementation and operation of the "Urban Express" project, which aims to improve and develop public transportation infrastructure for buses in the Tel Aviv metropolitan area (the "**Project**"), whether or not for compensation, as may be held (hereinafter: the "**Future Tenders**") unless I will issue an appropriate request and receive a written approval in advance for it from the Company, to be given in its sole discretion.
4. Provisions of this declaration shall apply, respectively, to contractual relations between me and competitors in the Future Tenders, as defined in Section 3 above, including the bodies comprising the same competitors, and will apply to any body and/or company to be elected at the end of the Future Tenders.
5. I hereby undertake not to provide any third party, including other Consultant of the Company or anyone acting on their behalf, any service or information related to the services provided under the Agreement and/or in connection with the Project and/or any other service relating to, directly or indirectly, the services under the Agreement, whether such service or information is given for compensation or not, except for services on behalf of the Company, unless the Company gave its prior written consent.

6. I acknowledge that the provisions of Section 3 shall remain in force even after the termination of the Agreement. Provisions of Section 4 as far as they relate to providing advice in connection with the services under the Agreement and/or the Project will remain in force even after the termination of the Agreement without limitation while provisions of Section 4 regarding providing of advice in relation to any other matter and the provisions of Section 5 shall remain in force one (1) year after the termination of the Agreement.

7. My obligations above were given of my own free will and are irrevocable.

_____ _____
Name and Signature Date

Appendix D
The Tender Documents

[To be attached]

Appendix E
System Manufacturer Undertaking

[To be attached]