

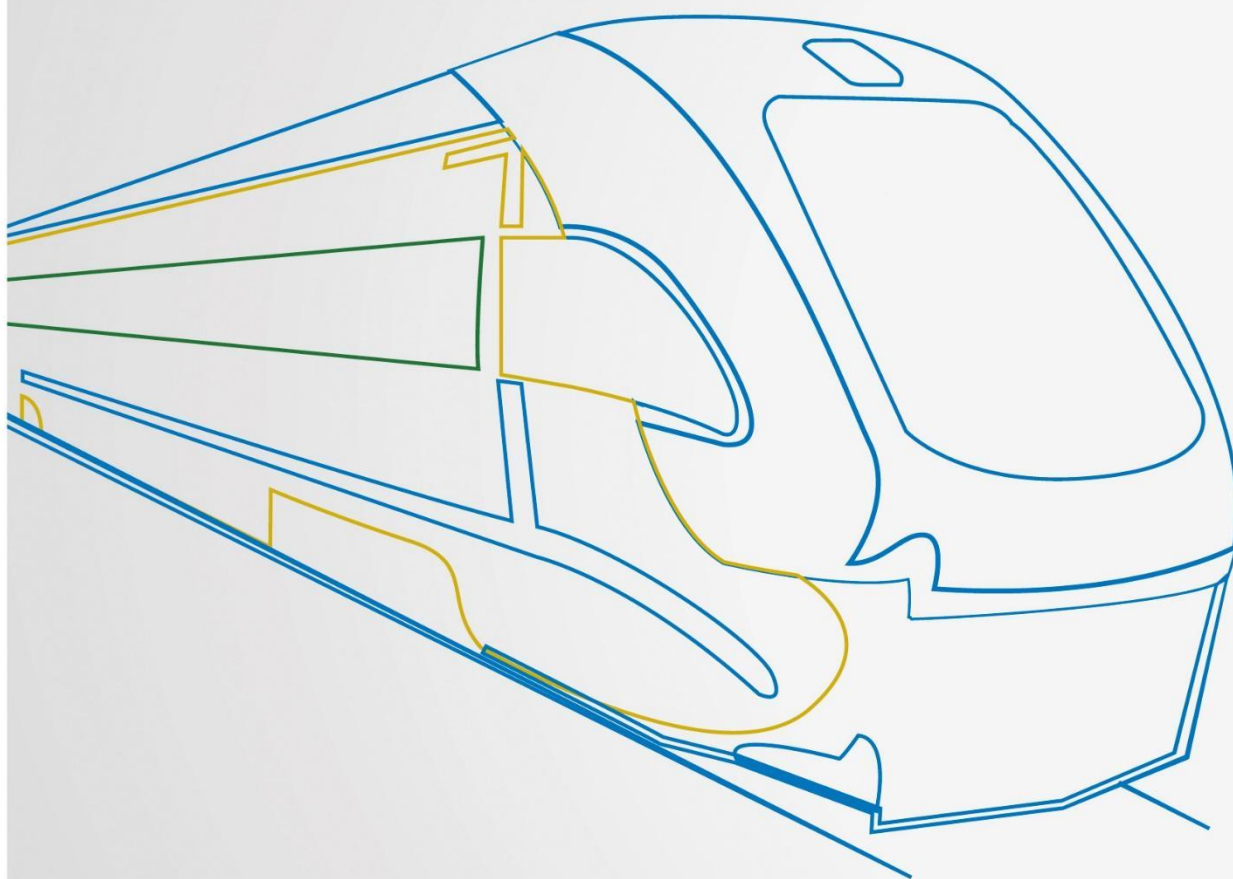
**CONTRATO Nº XXX-2024/DT**

**CBTU**

**COMPANHIA BRASILEIRA DE TRENS URBANOS**

**&**

**XXXXXXXXXXXXXXXXXXXXXXX**





**CBTU**

Companhia Brasileira de Trens Urbanos

Administração Central

**CONTRACTOR: BRAZILIAN URBAN TRAIN COMPANY - CBTU**

**CONTRACTOR: [...]**

**CONTRACTUAL CLAUSES**

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CLAUSE TWO:	- PERIOD OF VALIDITY
THIRD CLAUSE:	- START OF SUPPLY
CLAUSE FOUR:	- METHOD OF RECEIPT
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Acquisition Contract that they enter into between themselves, on one side **BRAZILIAN URBAN TRAIN COMPANY – CBTU** and on the other, ....., in the form below:

### **PREAMBLE**

A **BRAZILIAN URBAN TRAIN COMPANY - CBTU**, registered with CNPJ-ME under nº 42.357.483/0001-26, with headquarters at Setor Bancário Norte - SBN, block 01, block B, nº 14, Edifício CNC, 9th to 13th floor, Asa Norte, in Brasília - DF, CEP: 70.041-902, in this city, hereinafter referred to as **CBTU**, in this act represented by its Chief Executive Officer ....., holder of Identity Card no. ....., issued by ....., registered with the CPF/ME under no. ..... and its Director of ..... ....., holder of identity card no. ....., issued by ....., registered with the CPF/ME under no. ..... and the company ....., registered with the CNPJ-ME under number ....., based in ....., nº ....., in ....., hereinafter called **CONTRACTOR** in this act represented by ....., holder of Identity no. ....., issued by ....., registered with the CPF/ME under no. ..... and for ....., holder of Identity Card no. ....., issued by ....., registered with the CPF/MF under no. ....., enters into this Contract Term, as a result of the **SRP Electronic Auction no. ..../2024/GALIC/AC/CBTU**, PROT Administrative Process No. ...., and in compliance with the provisions of Law No. 13,303, of June 30, 2016, Decree 8,945, of December 27, 2016, Decree 10,024, of September 20, 2019, of Complementary Law No. 123, of December 14, 2006, of Decree No. 8,538, of October 6, 2015, of SEGES/ME Normative Instruction No. 65/2021, of Decree No. 7,892, of January 23, 2013 **and subsequent amendments**, of the Internal Regulations for Tenders and Contracts of the CBTU – RILC/CBTU and the precepts of private law, as well as in harmony with the constitutional principles, principles of Public Administration, provisions of the Federal Court of Auditors and the **Clauses and Conditions** set out below:

### **1. CLAUSE ONE – OBJECT**

1.1. The purpose of this contract is **hiring a company specializing in the supply of railway tracks for the acquisition of 2,032.01 TON of TR-57 tracks (nominal mass of 56.90 kg/m), new, manufactured and tested in accordance with ABNT NBR 7590:2012**, according to specifications contained in the Terms of Reference, which is an integral part of this instrument – Annex I.

1.2. This contract also includes the proposal presented by **CONTRACTOR** – Annex II, as well as the SRP bidding notice nº ...../GALIC/AC/CBTU, and the Internal Regulations for Tenders, Direct Contracts, Contracts and Agreements, of the CBTU – RILC/CBTU,



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available at: [https://www.cbtu.gov.br/images/licitacoes/rilc\\_cbtu\\_2020.pdf](https://www.cbtu.gov.br/images/licitacoes/rilc_cbtu_2020.pdf); independent of transcription.

1.3. In case of divergence or contradiction between the provisions of the documents mentioned in the previous items and those of this contract, the rules contained in the bidding notice will prevail.

## **2. CLAUSE TWO - TERM**

2.1. The term of the contract will be 9 (nine) months, counting from the date of signing the contract.

2.2. This contract may be extended in the interest of the parties in accordance with art. 71, of Law No. 13,303/2016 and art. 233, of the RILC/CBTU, up to a limit of 5 (five) years, upon execution of an Addendum.

2.3. A **CONTRACTOR** does not have a subjective right to a contractual extension.

2.4. During the entire execution of this contract, **CONTRACTOR** undertakes to fully observe the provisions set out in the Code of Ethics, the Code of Conduct and Integrity and the Related Party Transactions Policy, all prepared by the Brazilian Urban Train Company – CBTU.

2.5. For the purpose of complying with the aforementioned rule, the documents referred to in the previous item are available at the following electronic addresses, providing the **CONTRACTOR**, also, formally request a copy of those from the manager of this instrument:

2.5.1. Code of ethics:

<https://www.cbtu.gov.br/images/home/acbtu/codigodeeticacbtu190918.pdf>;

2.5.2. Code of Conduct and Integrity:

[https://www.cbtu.gov.br/images/gagov/codigo\\_de\\_conduta\\_e\\_integridade.pdf](https://www.cbtu.gov.br/images/gagov/codigo_de_conduta_e_integridade.pdf); It is

2.5.3. Related Party Transactions Policy:

[https://www.cbtu.gov.br/images/gagov/politica\\_de\\_transacoes\\_com\\_partes\\_relacionadas.pdf](https://www.cbtu.gov.br/images/gagov/politica_de_transacoes_com_partes_relacionadas.pdf).

## **3. CLAUSE THREE – START OF SUPPLY**

3.1. The deadline for starting the supply of parts will be 06 (six) calendar months and will begin upon issuance by the **CBTU** of the 1st OEX (Execution Order) and the acceptance of the aforementioned document by **CONTRACTED**.

3.1.1. Track deliveries will be made at the following addresses:

UNIT	ADDRESS
STU-REC	Rua Curumirim, s/n, Pontezinha, Cabo de Santo Agostinho – PE Pocket. 54589-015



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3.1.2. Delivery of the tracks must be made at the following time:

a) 8:30 am to 11:30 am and 1:30 pm. at 4:00 p.m.

3.2. An Execution Order - OEX will be issued for each fiscal year.

3.3. The period provided for in item 3.1 of Clause Three may be suspended, by agreement between the parties, provided that an imperative and extraordinary reason occurs, duly justified and proven, a fact that will give rise to the suspension of the execution of the contract while the relevant reasons persist.

3.3.1. Suspension of the contract will also be permitted due to duly proven force majeure.

3.4. **In addition to the hypotheses set out in the previous item, this contract may be suspended in the event of unavailability of a commitment limit or financial limit resulting from contingencies in the Union's fiscal budget..**

3.4.1. In this case the CBTU must formally notify the CONTRACTOR about the suspension, with **minimum notice of 30 (thirty) days.**

3.5. The suspension will be formalized through Addendum, where, whenever possible, the expected deadline for resuming execution will be defined, with the preparation of an execution schedule being recommended.

3.6. In these cases a CBTU will assign to the contract, as an extension, an increase in time equal to the period of suspension.

#### **4. CLAUSE FOUR – FORM OF SUPPLY**

4.1. The contractual object will be provided in accordance with the specifications and details contained in the Terms of Reference, ANNEX I of this Contract.

4.2. When supplying, the CONTRACTOR undertakes to comply with current standards and specifications, observing the most advanced technical procedures.

4.3. Reserved for CBTU the right to establish additional standards and instructions aiming at the best form of supply.

#### **5. CLAUSE FIVE – RECEIPT OF THE OBJECT**

5.1. Receipt of the contractual object will be made by CBTU, this way:

5.1.1 The release for boarding of the tracks will take place after carrying out all checks, tests and counter-tests under the supervision of the Certifier and upon acceptance and release of boarding by the supervision of the CBTU.

5.1.2. The rails must be loaded and transported tied with metal identification plates so that they arrive at the delivery location in perfect condition. A CONTRACTOR may optionally suggest another type of packaging, as long as it explains in detail in



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its proposal the type of tied or packaging to be used, so that it can be analyzed and, if applicable, approved by the CBTU.

5.1.3. Responsibility for loading, unloading and stacking the material is exclusive to the CONTRACTOR, the person responsible for the warehouse of the CBTU checking quantities and checking for possible damage occurring during loading, transport and/or unloading.

5.1.4. In the event of damage to the material, it may be refused by the person responsible for receiving it, drawing up a Term of Non-Receipt of Material at the time, which will detail the quantity and reason for non-acceptance.

5.1.5. Final acceptance will only be carried out after all necessary repairs and corrections required by inspection, and upon issuance by the CBTU of the Definitive Receipt Terms. There will be no provisional or partial receipt.

5.1.6. The amounts previously approved will be measured and paid, supplied and delivered to the locations indicated by the Inspectorate in each of the cities described in this Term, after attesting the quality and condition of the tracks delivered, and issuing the respective Final Receipt Term of the shipment.

5.2. Unloading the product will be the responsibility of the supplier, and the necessary labor must be provided.

5.3. In cases where provisional receipt is waived, as provided for in art. 226, of the RILC/CBTU, receipt will be definitively received by the contract manager, once it has been verified that the contractual object is in compliance with the requirements of the contract, the term of reference and the proposal presented by the CONTRACTOR.

5.3.1. In the event of this item, receipt will be made upon receipt.

5.4. The object will not be received if provided in disagreement with the contract, the reference term and/or the proposal presented by CONTRACTOR, subjecting it, in this case, to the penalties provided for in this contract and in the RILC/CBTU.

5.5. Provisional or definitive receipt does not exclude civil liability, especially regarding the solidity and safety of the service, nor professional ethics for perfect execution within the limits established by the Brazilian Civil Code and this contract.

5.6. In duly justified cases, the deadlines for provisional and definitive receipt may be extended upon authorization from the competent authority, formalized through an Addendum, as long as it is signed prior to the end of the contractual term.

5.7. As regulated in articles 12 to 17 of Law No. 8,078/90 CDC, the acceptance/approval of the product(s) by CONTRACTOR does not exclude the supplier's civil liability for defects in the quantity or quality of the product(s) or disparities with the established specifications, verified subsequently, guaranteeing CBTU the powers provided for in art. 18 of the same law.





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## **6. CLAUSE SIX – CONTRACT VALUE**

6.1. Through the acquisition, object of this Agreement, the **CBTU** will pay to **CONTRACTOR** the overall value of R\$ ..... (.....), according to the contractor's proposal, which will be paid according to the materials provided.

6.2. The total amount provided above includes all direct and indirect expenses necessary for the complete acquisition of the contracted object, in addition to expenses related to administrative support, offices, charges related to social and labor laws, insurance, fees, licenses and taxes of any nature. , which affect or will affect the Contract or its object, essential to the full fulfillment of the object of the contract.

## **7. CLAUSE SEVEN – PAYMENT METHOD**

7.1 Payment will be made, in national currency, within the 30th (thirtieth) day following the date of presentation and acceptance of the billing documents, which must be sent to the **CBTU**, whose address will be provided by the management/supervision of the contract, as long as there is due attestation by the Contract Manager and Supervisor.

7.2. Billing documents sent to **CBTU** for the **CONTRACTOR** must be forwarded, **necessarily**, using the PROPAG form – Billing Document Approval and Payment Process.

7.2.1 Before each payment to **CONTRACTOR**, SICAF will be consulted to verify the maintenance of the qualification conditions required in the NOTICE.

7.2.2. Noting, together with SICAF, the irregular situation of the **CONTRACTOR**, written communication will be provided so that, within 5 (five) days, you can regularize your situation or, within the same period, present your defense. The deadline may be extended once, for the same period, at the discretion of the CBTU.

7.3. Under penalty of non-payment, the following documentation must be presented by the **CONTRACTOR**:

7.3.1. Invoice/invoice duly attested by contract management/supervision;

7.3.2. Proof of regularity with the Federal Treasury, in accordance with the law; It is

7.3.3. Proof of regularity with the Social Security System, relating to the INSS and the Length of Service Guarantee Fund – FGTS, in accordance with the law.

7.4. In the case of contracts with staged payments, the **CONTRACTOR** may present billing documents to the **CBTU** as soon as inspection/management confirms compliance with the contractual steps provided for.

7.4.1 If you commit any of the following conducts: I – do not produce the results, fail to execute, or do not perform the contracted activities with the minimum quality; II – failing to provide the materials, payment will be withheld or disallowed, without prejudice to applicable sanctions.



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7.5. In the event of any type of irregularity in the billing documents issued, the **CBTU** will notify the **CONTRACTOR** so that the necessary corrections can be made. If the problem is detected within the first 5 (five) working days after delivery of the invoice by **CONTRACTOR**, the payment deadline will be restarted after delivery of the corrected documents. On the other hand, if the **CBTU** notice any error after the 5th (fifth) business day of delivery of the aforementioned documents, the time for payment will be interrupted, restarting its count upon receipt in the protocol of the **CBTU** of corrected documents.

7.5.1. In the event of the item above, the corrected documentation may be delivered directly to the management/supervision of the contract, as long as effective proof of the date of receipt is possible.

7.6. The applicable tax and social security charges will be deducted/withheld from the value of the invoices to be paid, in accordance with the relevant legislation and internal rules.

7.7. In the event of any late payment of contractual obligations, simple default interest of 6% (six percent) per year, that is, 0.5% (five tenths of a percent) per month, "pro rata die" will apply to the amounts due. , from the date of maturity of the obligation until the date of effective payment of the main obligation.

7.8. The monetary adjustment for possible delays in payment of contractual obligations will be calculated based on the variation of the IPCA – Broad Consumer Price Index, "pro rata die", from the due date to the date of effective payment of the main obligation.

7.9. If the documentation presents any irregularity, the date of receipt of the documentation duly regularized in the **CBTU**.

## **8. CLAUSE EIGHT – BUDGET ALLOCATION**

8.1. The expenses arising from this contract are programmed in a specific budget allocation, foreseen for the fiscal year **2024**, according to the classification below:

8.1.1. Work Program:

8.1.2. Expense Element:

8.1.3. Internal Plan:

8.1.4. Economic Category:

8.1.5. Commitment Note: ....., date .... / ..... / .....

8.2. The expense for subsequent years, when applicable, will be allocated to the budget allocation foreseen to meet this purpose, to be allocated to **CBTU**, by the Annual Budget Law.

## **9. CLAUSE NINE – READJUSTMENT**

9.1. The value set out in the contract will be adjusted annually, subject to a minimum period of one year, counting from the date of presentation of the final awarded proposal.





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9.2. The value of the contract will be readjusted, as long as the annual periodicity is observed, applying the variation in the Broad Producer Price Index – Basic Metallurgical Transformation Industry, observing the following formula:

$R = P0[(I - I0)/ I0]$  where:

R= Value of the adjustment sought;

P0 = Measurement value to be readjusted;

I = Broad Producer Price Index – Basic Metallurgical Transformation Industry – 1006823, published in FGV's Conjuntura Econômica magazine, corresponding to the month of annual contract readjustment;

I0 = Broad Producer Price Index – Basic Metallurgical Transformation Industry – 1006823, published in FGV's Conjuntura Econômica magazine, corresponding to the month of the base date.

Base Date: deadline for submitting the proposal or last adjustment.

9.3. In the case of a contract concluded in foreign currency, the adoption of the national adjustment index provided for in item 9.2 will not be applicable, since payment will be based on the value of the foreign currency in force on the business day immediately preceding the date of actual payment, under the terms of art. 23-A, § 4, of the RILC-CBTU; hypothesis in which the maintenance of the effective conditions of the proposal presented in the bidding will be guaranteed.

9.4. The adoption of the rule provided for in the previous item does not prevent the carrying out of a contractual review, aiming to reestablish the initial economic-financial balance of the contract, in accordance with art. 81, item VI, of Law No. 13,303/2016; as long as the legal requirements are effectively demonstrated by the party interested in the review.

9.5. The risk matrix defined in Annex IV is an integral part of this Terms of Reference and establishes the risks and responsibilities between the parties and characterizes the initial economic-financial balance of the contract.

## **10. CLAUSE TEN – PERFORMANCE GUARANTEE**

10.1. A **CONTRACTOR** will provide a guarantee corresponding to the percentage of 5% (five percent) of the total value of the contract, and may, under the terms of the first paragraph of art. 70, of Law No. 13,303/2016, choose the modalities listed below:

10.1.1. Cash deposit: must be deposited at Caixa Econômica Federal – CEF, in a specific account with monetary correction, in favor of the **CBTU**, as directed by contract management;

10.1.2. Guarantee insurance: the insurance policy must be issued by an institution authorized by the Private Insurance Superintendence – SUSEP, operating in the insurance market;



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10.1.3. Bank guarantee: the Letter of Guarantee must be issued by a financial institution authorized by the Central Bank of Brazil – BACEN, operating in Brazil.

10.2. A **CONTRACTOR** must present to the **CBTU** proof of provision of the guarantee, within a maximum period of 10 (ten) business days, counting from the date of the delivery protocol of the signed copy of the contract.

10.2.1. The **CONTRACTOR** may request in writing, with due justification, before the end of the period mentioned above, an extension of the period for presenting the guarantee, for the same period, for a single time, the approval of which will be at the discretion of the **CBTU**, with the consent of contract management.

10.3. The guarantee provided will ensure, whatever the modality chosen, the payment of:

10.3.1. losses arising from non-compliance with the object of the contract and/or non-compliance with other obligations set out therein;

10.3.2. losses caused to the administration, resulting from fault or willful misconduct during the execution of the contract;

10.3.3. the sanctioning fines applied by the **CBTU** to the **CONTRACTOR**;

10.3.4. labor and social security obligations of any nature not fulfilled by the **CONTRACTOR**.

10.4. Guarantees in the insurance-guarantee modality will not be accepted, the terms of which do not expressly include the events indicated in sub-items 10.3.1 to 10.3.4, of the previous item.

10.5. In the event that the guarantee is consolidated through guarantee insurance or bank guarantee, these must be valid for at least 90 (ninety) days beyond the expiration of the contractual term, at which point the instrument will be returned to the **CONTRACTOR** after verifying compliance with all contractual obligations and issuing the Contract Termination Term.

10.6. When the guarantee is consolidated through guarantee insurance, the **CONTRACTOR** You must prove full payment of the premium.

10.6.1. The insurance policy must expressly provide for the insurer's liability for any and all fines of a sanctioning nature applied to the **CONTRACTOR**.

10.7. A **CBTU** will offer a model Letter of Guarantee, which will contain the guarantor's express waiver of the benefit of the order provided for in art. 827, pursuant to item I of art. 828, both of the Brazilian Civil Code.

10.7.1. The rules set out in articles 835 to 839 of the Brazilian Civil Code also apply to the guarantee provided by bank guarantee.

10.8. Failure to comply with the deadline set for presenting the guarantee, provided for in item 10.2 of this Clause, will result in the imposition of a fine of 0.2% (two tenths of a



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percent) of the total value of the contract, per day of delay, up to a maximum limit of 5 % (five per cent).

10.9. Delays exceeding 30 (thirty) days authorize **CBTU** to promote the termination of the contract, due to non-compliance or irregular compliance with the clauses of this contract, under the terms of art. 68, item VII, of Law No. 13,303/2016 and articles 239 and 240, I, of the RILC/CBTU.

10.10. In the event of a change in the contractual value, extension of the validity period, total or partial use of the guarantee by the **CBTU** or, in other situations that imply loss or insufficiency of the guarantee, the **CONTRACTOR** must arrange for the supplementation or replacement of the guarantee provided within the period determined by the **CBTU**, observing the original conditions for acceptance of the guarantee stipulated in this Clause.

10.11. The guarantor must expressly declare that they are fully aware of the terms of the notice and contractual clauses.

10.12. The warranty will be considered void:

10.12.1. With the return of the policy, letter of guarantee or authorization to withdraw the amount of money deposited as a guarantee, accompanied by a declaration of **CBTU**;

10.12.2. Within 90 (ninety) days after the end of the term, if CBTU does not report the occurrence of accidents.

10.12.3. In both cases provided for in the previous sub-items, it must be issued by the **CBTU** the Closing Term, stating that the **CONTRACTOR** complied with all clauses of the contract.

10.13. A **CBTU** will not enforce the guarantee in the event of one or more of the following hypotheses:

10.13.1. Act of God or force majeure;

10.13.2. Change, without prior knowledge of the insurer or guarantor;

10.13.3. Failure to comply with obligations by **CONTRACTOR** arising from acts or facts carried out by the **CBTU**;

10.13.4. Intentional illicit acts carried out by employees of the **CBTU**.

10.14. It will be up to the **CBTU** determine the exemption from liability provided for in sub-items 10.13.3 and 10.13.4 of this Clause, with the guaranteeing entity not being a party to the process initiated by the **CBTU**.

10.15. Guarantees that include exemptions from liability other than those provided for in item 10.13 of this Clause will not be accepted.

## **11. CLAUSE ELEVEN – OBLIGATIONS OF THE CONTRACTOR**



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11.1. In addition to the obligations contained in other contractual clauses, the **Bidding Notice**, do **Reference term** yes **Proposal**, integral parts of this contract term, regardless of transcription, it is up to the **CONTRACTOR** compliance with the following obligations:

11.1.1. Maintain, during the term of this contract, all the qualification conditions required when hiring, and must proceed with proof if requested by the **CBTU**;

11.1.2. Communicate the imposition of a penalty that results in the impediment of bidding and contracting with the **CBTU**, under the terms of Law No. 13,303/2016;

11.1.3. Fulfill, within the stipulated deadlines, the contractual obligations assumed;

11.1.4. Respect the company's internal rules and procedures **CBTU**, including those relating to access to the Company's facilities, aiming at the perfect execution of the purpose of this contract, presenting the requested information and documents proving the adequate fulfillment of contractual obligations.

11.1.5. Repair, correct, remove, reconstruct or replace, at its own expense, in whole or in part, the object of the contract in which defects, defects or inaccuracies are found.

11.2. They are expressly prohibited from **CONTRACTOR**:

11.2.1. The dissemination of advertising about this contract, unless there is prior authorization from the **CBTU**;

11.2.2. Assign or transfer this Agreement to third parties, in whole or in part, without the prior and express consent of **CBTU**.

11.3. A **CONTRACTOR** must fully observe, throughout the execution of this instrument, the provisions set out in the Code of Ethics, the Code of Conduct and Integrity and the Related Party Transactions Policy, all prepared by **CBTU**.

## **12. CLAUSE TWELVE – OBLIGATIONS OF CBTU**

12.1. In addition to the obligations contained in the other contractual clauses, the bidding notice, the term of reference and the proposal, integral parts of this contract term, regardless of transcription, it is up to the **CBTU**:

12.1.1. Provide all information, clarifications and documents necessary for the **CONTRACTOR** for the perfect execution of the contract;

12.1.2. Receive the contractual object, when it complies with the specifications contained in this contract and the term of reference;

12.1.3. Make payments due to **CONTRACTOR**, under the conditions established in this contract;

12.1.4. Provide adequate conditions for installing equipment, when applicable;

12.1.5. Apply to **CONTRACTOR** applicable contractual and legal penalties, through administrative procedures, ensuring contradictory and full defense;



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12.1.6. Issue, after the Contract term has expired, a Reciprocal Settlement Term, to be signed by the parties, provided that there are no physical and/or financial pending issues in the Contract.

12.1.7. Also comply with the responsibilities set out in the Terms of Reference, ANNEX I.

12.1.8. Appoint employees for the management and supervision of the contract.

12.2. A **CBTU** must make available to the **CONTRACTOR**, through the manager of this contract, its Code of Ethics, its Code of Conduct and Integrity and its Related Party Transactions Policy, in electronic and/or physical media.

### **13. CLAUSE THIRTEENTH – TAXES**

13.1. It is attributed to **CONTRACTOR** the responsibility for paying any taxes existing at the date of signing the Contract, whether ancillary or main obligation and whose incidence arises, directly or indirectly, from the legal transaction formulated here, as well as insurance and licenses required by the Public Authorities.

13.2. The default of the **CONTRACTOR** with reference to the charges mentioned in the previous item, does not transfer to **CBTU** responsibility for its payment, nor may it encumber the purpose of this Agreement or restrict regularization.

13.3. In the event of a change in tax rates or the establishment of new ones from the date of submission of the proposal that may directly affect the prices of the object of the Contract, these prices may be changed as long as it is proven by means of a suitable document to be presented by the **CONTRACTOR** as soon as they are officially published.

13.4. The provisions of the previous item do not apply if any of the above events result from delay attributable to the **CONTRACTOR**.

### **14. CLAUSE FOURTEENTH – DISCLAIMER OF LIABILITY**

14.1. The parties are not responsible for non-performance resulting from acts of God or force majeure provided for in article 393 of the Brazilian Civil Code.

14.2. The party whose obligation is prevented or delayed by any of the facts or acts mentioned above must immediately communicate and prove the occurrence, explaining the reasons why they are compelled to delay the execution of the agreement.

14.3. If the impediment ceases, the provisions of items 3.3 and 3.6 of Clause Three apply, if applicable.

### **15. CLAUSE FIFTEEN – MANAGEMENT AND SUPERVISION**

15.1. Each party will designate a manager and inspector, through an exchange of correspondence within 10 (ten) days from the signing of this contract, their deliberations being sufficient to fulfill the obligations of the physical and financial schedules of the



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contract. Such documents will be considered an integral and complementary part of this contract.

15.2. The inspection and supervision of the Contract will be the responsibility of **CBTU**, which, among other duties inherent to it, will be responsible for monitoring the execution of the contract and its compliance with the contractual provisions, pointing out delays and events that occurred during the execution of services subject to sanctions.

15.2.1. Inspection activities must comply with the rules established in this contract, in the bidding notice, in the terms of reference and in the proposal of the **CONTRACTOR**, as well as the applicable legislation and specific internal rules of the **CBTU**, especially the RILC/CBTU or another that may replace it.

## **16. CLAUSE SIXTEEN - SUBCONTRACTING**

16.1. A **CONTRACTOR**, provided that it is previously, formally and expressly authorized by the **CBTU**, may subcontract parts of the contractual object, up to a limit of 25% (twenty-five percent).

16.2. A **CONTRACTOR** cannot subcontract the execution of the part of the object relating to railway works as it constitutes a technically relevant part of the object.

16.3. The subcontractor must meet, in relation to the object of subcontracting, the same qualification requirements, especially technical qualifications, required by the **CONTRACTOR** in the bidding contest.

16.4. Subcontracting without the authorization of **CBTU** referred to in item 16.1 of this Clause or in disagreement with the provisions of art. 78, § 2, of Law 13,303/2016 and in art. 224, § 2, of the RILC/CBTU, is characterized as contractual default, giving rise to **CONTRACTOR** the sanctions provided for in this contract.

16.5. A **CONTRACTOR** is responsible for any acts and/or omissions carried out by the subcontractor, as a result of the execution of the purpose of this contract.

## **17. CLAUSE SEVENTEEN – SECRECY**

17.1. A **CONTRACTOR** undertakes to maintain confidentiality regarding data, materials, documents and information of a confidential nature that it may have access to as a result of the execution of this contract, being responsible for guiding its employees regarding this Clause and responding, in case of non-compliance with the same, in accordance with Law No. 12,527, of November 18, 2011 and other applicable rules.

17.2 A **CONTRACTOR** undertakes for itself and its employees, representatives and/or collaborators to maintain confidentiality and secrecy regarding any information obtained under this contract. A **CONTRACTED** acknowledges that both this contract and all documents, data and information arising from it constitute reserved confidential data and elements, which may only be revealed to third parties with the prior written consent of **CONTRACTOR** or as a result of legal imposition. The obligation of secrecy will last for





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the duration of the Agreement and 5 (five) years after its termination. A **CONTRACTOR** also assumes full responsibility for breaches of confidentiality carried out by its employee, agent and/or collaborator.

17.3 A **CONTRACTOR** undertakes to expressly inform its employees, agents, contractors and/or third parties related to it about the confidential nature of the information, taking all necessary measures so that it is disclosed only to employees, agents, contractors and/or third parties related to it who need to have access to them, for the purposes of this Agreement.

17.4 Failure to comply with any of the confidentiality provisions established in this instrument will subject you to **CONTRACTOR**, as well as to the causing agent or facilitator, by action or omission of any of those related to this contract, to the payment, or recomposition, of all losses and damages, as well as the respective civil and criminal liability, as well as the contractual fine of up to .....% (.....) of the initial contract value.

## **18. CLAUSE EIGHTEEN – ASSIGNMENT OF THE CONTRACT**

18.1. It is prohibited to **CONTRACTOR** to transfer or assign, in any capacity, the rights and obligations assumed in this contract, as well as pledge it or use it for any financial transaction.

## **19. CLAUSE NINETEEN – CONTRACTUAL AMENDMENT**

19.1. Any contractual changes will be governed by the discipline of art. 81, of Law No. 13,303/2016.

19.1.1. Contractual changes will be formalized through an Addendum.

19.2. The signing of contractual amendments must be preceded by agreement between the parties and will comply with the rules set out in articles 232 and 234 of the RILC/CBTU.

19.3. No increase may exceed the limit of 25% (twenty-five percent) of the updated initial value of the contract, with suppression above this limit permitted, subject to, in both cases, the need for prior agreement between the parties.

## **20. CLAUSE TWENTY – ADMINISTRATIVE SANCTIONS**

20.1. These are situations that give rise to the application of sanctions to **CONTRACTOR**, unjustified delay in the execution of this contract (delay) and/or its total or partial non-execution.

20.2. Unjustified delay in the execution of this contract subject to **CONTRACTOR** late payment fine, in accordance with art. 82, of Law No. 13,303/2016.

20.2.1. The late payment fine will be 0.5% (five tenths of a percent) per day of unjustified delay on the unpaid installment, up to a limit of 10% (ten percent).

20.2.2. The fine referred to in this item does not prevent the **CBTU** terminate and/or apply the other sanctions provided for in this contract.



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20.3. Total or partial non-performance of this contract subject to **CONTRACTOR** to the following sanctions, provided that due administrative sanctioning process is observed, ensuring contradictory and broad defense:

20.3.1. Warning;

20.3.2. Fine, limited to 10% (ten percent) of the value of the remaining balance of the contract, in case of partial non-execution;

20.3.3. Fine, limited to 30% (thirty percent) of the value of the contract, in case of total non-execution; It is

20.3.4. Temporary suspension of participation in bidding and prevention of contracting with the entire **CBTU**, including the Central Administration and the Urban Train Superintendencies, for a period not exceeding 2 (two) years.

20.4. The fine applied will be offset against any credits in favor of the **CONTRACTOR** arising from the execution of this Agreement, observing the provisions of articles 368 et seq. of the Civil Code of 2002.

20.5. If it is not possible to use the rule provided for in the previous item, the fine will be executed in the following order:

20.5.1. Through administrative collection, through the sending, by the contract manager, of the Union Collection Guide – GRU, to the **CONTRACTOR**, for payment within the period defined by the competent authority;

20.5.2. By discounting the performance guarantee, if provided;

20.5.3. By discounting any payments due by CBTU, if the fine is higher than the value of the guarantee provided, without prejudice to the loss of this; or

20.5.4. Through an execution process, this contract being valid as an extrajudicial executive title, in accordance with article 784, item III, of the New Civil Procedural Code.

20.6. Temporary suspension of participation in bidding and impediment of contracting with the **CBTU** may be applied to **CONTRACTOR** in the cases provided for by art. 245, of the RILC/CBTU.

20.7. The sanctions provided for in this Clause may also be applied to companies or professionals who, as a result of this contract:

20.7.1. Have suffered a definitive conviction for committing, through intentional means, tax fraud in the collection of any taxes;

20.7.2. Have committed illegal acts aimed at frustrating the objectives of the bidding; or

20.7.3. Demonstrate that they do not have the suitability to contract with the **CBTU**, in coming of illicit acts carried out.



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20.8. The administrative sanctioning process will comply with the provisions of articles 247 and 248 of the RILC/CBTU.

20.9. The criminal law rules set out in Chapter II-B of Title XI of the Special Part of Decree-Law No. 2,848, of December 7, 1940 (Penal Code) apply to this contract.

**21. CLAUSE TWENTY-ONE – EXTINCTION AND TERMINATION**

21.1. This contract will be terminated:

21.1.1. For the complete execution of its object or for the advent of a term or condition provided for therein;

21.1.2. At the end of its validity period;

21.1.3. For its termination.

21.2. Termination of this contract may be:

21.2.1. By unilateral act of either party, preceded by written and substantiated communication from the interested party to be sent to the other party at least 30 (thirty) days in advance;

21.2.2. Amicable, by agreement between the parties reduced to a termination term, as long as there is convenience for the CBTU;

21.2.3. Through the courts, in accordance with current legislation on the matter.

21.3. The reasons for terminating this contract are the hypotheses set out in art. 240, from RILC/CBTU.

21.4. When the termination of this contract occurs without the fault of the other contracting party, the latter will be compensated for any losses suffered, provided they are regularly proven.

21.5. The termination of this contract will be duly published in the Federal Register.

**22. CLAUSE TWENTY-TWO – ADMINISTRATIVE APPEAL**

22.1. Penalties applied as a result of this contract may be appealed within 05 (five) business days, counting from the date of the summons or acknowledgment of the act.

22.1.1. The appeal phase will comply with the provisions of chapters III and IV, of Title IV, of the RILC/CBTU.

**23. CLAUSE TWENTY-THREE – COMMUNICATION BETWEEN THE PARTIES**

23.1. It is hereby established that any notices and/or communications between the parties will be made in writing and addressed to the following addresses:

23.1.1. Brazilian Urban Train Company – CBTU;

23.1.1.1. Address: Address: North Banking Sector - SBN, block 01, block B, nº 14, Edifício CNC, 9th to 13th floor, Asa Norte, in Brasília - DF, CEP: 70.041-902;



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23.1.1.2. E-mail:

23.1.2. Company:

23.1.2.1. Address:

23.1.2.2. E-mail:

23.1.2.3. Telephone:

## **24. CLAUSE TWENTY-FOUR – ANNEXES**

24.1. This contract, regardless of transcription, includes the following documents:

24.1.1. ANNEX I – Reference Termsf;

24.1.2. ANNEX II – Price Proposal for **CONTRACTOR**, dated ....../....../202\_;

24.1.3. SRP Electronic Auction Notice No. ....../GALIC/AC/CBTU; It is

24.1.4. The Internal Regulations for Tenders, Direct Contracts, Contracts and Agreements, of the CBTU – RILC/CBTU, available at: [https://www.cbtu.gov.br/images/licitacoes/rilc\\_cbtu\\_2020.pdf](https://www.cbtu.gov.br/images/licitacoes/rilc_cbtu_2020.pdf).

24.2. In case of divergence between the provisions of this Agreement and those of the documents referred to in this Clause, the Notice will prevail.

## **25. CLAUSE TWENTY-FIVE – OMITTED CASES**

25.1. Any omissions that may arise when executing the contractual object or interpreting the Clauses of this contract will be decided by the **CBTU**, according to the provisions contained in Law No. 13,303/2016 and the RILC/CBTU, as well as the precepts of private law.

## **26. CLAUSE TWENTY-SIX – DATA PROTECTION**

26.1 The parties undertake to protect the fundamental rights of freedom and privacy and the free development of the personality of the natural person, relating to the processing of personal data, including in digital media, in accordance with the General Data Protection Law - LGPD (Law no. . 13,709, of August 14, 2018).

26.2 The processing of personal data will take place in accordance with the legal bases provided for in articles 7, 11 and/or 14 of Law 13,709/2018 to which the services will be subject, and for legitimate, specific, explicit and informed purposes. to the holder.

26.3 A **CONTRACTOR** undertakes the duty of protection, confidentiality, secrecy of all information, personal data and databases to which it has access, in accordance with the LGPD, its amendments and subsequent regulations, during the fulfillment of the purpose described in the contractual instrument.

26.4 A **CONTRACTOR** You may not use information, personal data or databases to which you have access, for purposes other than the execution of the services specified in the contractual instrument.



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26.5 If it is necessary to collect personal data from holders through consent, essential for the provision of the service itself, this will be carried out after prior approval from the **CBTU**, taking responsibility for **CONTRACTOR** for obtaining and managing.

26.6 A **CONTRACTOR** undertakes to implement technical and administrative measures capable of promoting the security, protection, confidentiality and secrecy of all information, personal data and/or databases to which it has access, in order to prevent unauthorized access, accidents, leaks accidental or illicit events that cause destruction, loss, alteration, communication or any other form of inappropriate or illicit treatment; all of this in order to reduce the risk to which the object of the contract or the **CBTU** is exposed.

26.7 A **CONTRACTOR** will be obliged to assume full responsibility for property, moral, individual or collective damages that may be caused as a result of non-compliance with its legal obligations in the process of processing data shared by CBTU and the administrative sanctions set out in the General Data Protection Law - LGPD (Law No. 13,709, of August 14, 2018) will be applied.

#### **CLAUSE TWENTY-SEVEN – PROPERTY AND COPYRIGHT**

27.1. The property and copyright rights of projects or specialized technical services developed by independent professionals or contracted companies resulting from the execution of this contract become the property of **CBTU**, without prejudice to the preservation of the identification of the respective authors and the technical responsibility attributed to them.

27.1.1. The **CONTRACTOR** It is prohibited to sell the products generated, relating to the provision of services covered by the subject matter of this Agreement.

#### **CLAUSE TWENTY-EIGHT - PUBLICATION**

28.1. It will be up to **CBTU** arrange for the publication of the extract from this Agreement in the Official Gazette of the Union, by the last business day of the month following its conclusion.

28.1.1. Within the same period stipulated in the item, the entirety of this contract will be made available on the website of the **CBTU** online.

#### **CLAUSE TWENTY-NINE - GENERAL PROVISIONS**

29.1 It is hereby agreed that all documents and correspondence exchanged between the parties, during the term of this Agreement, will have full force and will produce their due and legal rights, as long as they are duly signed and initialed by the legal representatives of the companies, legally equipped with powers to representation, except that such documents will not necessarily imply the modification of this Instrument, which will only be effective upon execution of an addendum, re-ratification or annexes.



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29.2 This contract obliges the parties and their successors in any capacity, constituting an extrajudicial executive title, in accordance with article 784, item III of the Civil Procedure Code.

29.3 All communications and notifications relating to the contract will be made in writing and considered delivered as long as they are proven to have been received by the recipient or their legal representative, regardless of the means used, or even if they are actually delivered and sent to the addresses set out in the preamble of this contract.

29.4 In the execution of this Agreement, it is prohibited to **CONTRACTOR** and to the **CONTRACTING PARTY** and/or your employee, and/or your agent, and/or your manager:

- a) promise, offer or give, directly or indirectly, an undue advantage to a public agent or anyone else, or to a third party related to them;
- b) fraudulently or irregularly create a legal entity to enter into this Agreement;
- c) fraudulently obtain an undue advantage or benefit from modifications or extensions of this Agreement, without authorization by law, in the public bidding notice or in the respective contractual instruments;
- d) manipulate or defraud the economic-financial balance of this Agreement;
- e) in any way defraud this Agreement; as well as carrying out any actions or omissions that constitute an illegal or corrupt practice, in accordance with Law No. 12,846/2013 (as amended), Decree No. 8,420/2015 (as amended), the U.S. Foreign Corrupt Practices Act of 1977 (as amended) or any other applicable laws or regulations ("Anti-Corruption Laws"), even if not related to this Agreement.

### **THIRD CLAUSE – FORUM**

30.1. The contracting parties elect the forum of the Judicial Section of the Federal District – Federal Court, expressly renouncing any other, however privileged it may be, to resolve any issue arising from this Agreement.

The Parties declare awareness and express agreement that this instrument may be signed by digital, electronic or handwritten means, or even in a mixed manner, and, in the latter case, two different forms of signatures may be used at the discretion of the Parties, with the declarations contained in this Agreement, signed by any of the means chosen above, including the mixed form, will be presumed to be true in relation to the Contracting Parties, under the terms set out in articles 219 and 225 of Law No. 10.406/02 (Brazilian Civil Code), as well as as expressed in Provisional Measure No. 2,200-2, of August 24, 2001, as applicable.





**CBTU**

**Companhia Brasileira de Trens Urbanos**

Administração Central

Brasília, [date]

TO CONTRACTOR: **BRAZILIAN URBAN TRAIN COMPANY – CBTU:**

XXXXXXXXXXXXXX

- CEO -

XXXXXXXXXXXXXXXXXX

- Director of XXXXXXXXXXXX -

TO CONTRACTOR: ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~:

XXXXXXXXXXXXXXXXXX

XXXXXXXXXX

**Witnesses:**

1 - \_\_\_\_\_  
CPF:

2 - \_\_\_\_\_  
CPF: