**Cooperation Agreement between the Carriers
and Conditions of use of the locomotive**

**Contract Number: XX/2024**

(hereinafter referred to as the **"Contract")**

Article I

Contracting parties

**EP Cargo a.s.**

Registered Office: Praha 4 - Nusle, náměstí Hrdinů 1693/4a, PSČ 140 00, Česká Republika

ID: 24721166

VAT ID: CZ 24721166

EPC CZ s.r.o. is registered in the Commercial Register kept by the Municipal Court in Prague,
Section B, Insert 16405

Represented by: ..................................

 ...................................

**(hereinafter referred to as "EPC")**

and

………………

Registered Office:

……………………………….……………………………….……………………………

ID: ………………………………

VAT ID: ………………………………

Represented by: ………………………………

 ………………………………

**(hereinafter referred to as "XYZ")**

**Terminology:**

Provider - a carrier providing a locomotive for transportation

User - a carrier using the provided locomotive to carry out transportation activities

The contracting parties acknowledge that, with regard to the nature of the performance of this contract, each of them may be on the Provider's side in one business case (transportation project) and the other on the User's side in another business case. The decisive factor for the position of each contracting party in a specific business case is the agreement between the parties on the method of transportation with regard to the existence of the railway carrier's authorization on the used transportation infrastructure.

Transportation project - a project within international railway freight transportation, in which one contracting party acts as a subcontractor, supplier, or subsequent carrier of the other contracting party.

SUBJECT AND PURPOSE OF THE CONTRACT

* The purpose of this contract is to establish the rights and obligations of the contracting, subsequent, or performing carrier (as relevant) in the performance of international freight transportation and carriage.
* Furthermore, the possibility of short-term lease of locomotives beyond the scope of cooperation in joint transports. See Article 4 of this contract.
* The Provider declares that the locomotives are in a condition corresponding to their age, wear, and in a technical condition enabling their proper use in accordance with the purpose for which they will be used by the User. The locomotives are transferred for temporary use to the User with all components and accessories.
* The locomotives are provided to the User exclusively for the purpose of partial uses (performances), which are understood as: Leading pre-agreed freight trains from a specific railway station, to be specified on an operational basis and based on approved routes of infrastructure upon the request of the Provider and the User.
* Neither party to the contract shall have the right to assert or enforce a lien on the locomotive or freight cars owned by the other party to the contract.
* For all mutual transports and short-term leases of locomotives (see clause 4 of this contract), commercial and price conditions must be agreed in writing between the contracting parties before their commencement.
* This Contract does not regulate the obligation to pay fees for the use of locomotives by the other party to the contract, as these are always taken into account in the relevant agreements for the specific transportation project. The contracting parties are obliged to have all necessary permits for the performance of transports and traction performances under this contract and are obliged to inform about any change or revocation of these permits.
* Both contracting parties have liability insurance of a railway transport company. This must be provided upon request or in case of a change in the amount of insurance coverage, to the other party to the contract.
1. RECEIPT and handing over OF the locomotive INTO use
2. Both-way handover and takeover of each respective locomotive (including the beginning and end of each partial performance) shall be carried out based on a written entry in the locomotive handover book, including recording any damages or defects of each respective locomotive. The entry in the locomotive handover book shall be mutually confirmed by the signatures of representatives of both parties – both locomotive drivers participating in the handover. They shall record the tachograph reading, date, and time at the moment of handover of each respective locomotive to the user at the handover location, and the tachograph reading, date, and time at the moment of return of the locomotive to the provider at the final location of the carrier's performance.

If, during the locomotive handover/receipt, the locomotive driver of the other party is not available, the locomotive driver of the transferring/receiving party shall record relevant information in the locomotive handover book and report it to their dispatcher. In case of apparent damage, they shall supplement it with photographs.

* + 1. The user's acceptance of the locomotive at the handover location from the provider and its return to the provider at the agreed time and place upon completion must not be baselessly refused. The only reason may be an unsatisfactory technical condition preventing proper use. If damage preventing immediate use is discovered, the user's or provider's acceptance may be refused until this damage is rectified (when the locomotive is brought into a suitable condition) and proper use is ensured. The refusal of takeover under this article must be confirmed in writing by both parties in the locomotive handover book (by locomotive drivers participating in the handover), stating the date, time, and tachograph reading at the time of refusal, with the refusing party specifying the exact reasons for refusal. Both contracting parties shall agree on the rectification of defects, with the provider primarily ensuring the repairs or, in specific cases, both the provider and the user based on a mutual written agreement between both contracting parties.
		2. The parties have agreed that in case, due to exceptional external events, it is objectively impossible to physically hand over or receive the locomotive between the locomotive drivers of both parties (e.g., due to impassable traffic routes and locomotive locking), the locomotive driver handing over the locomotive shall record all relevant data in the locomotive handover book and immediately notify their dispatcher of the location where the locomotive keys are stored, securing the train (locomotive), and any other relevant locomotive information. To eliminate doubts, the parties state that notifying their dispatcher does not relieve the locomotive driver of the obligation to make the appropriate entry in the locomotive handover book.
		3. Defects discovered during the handover of locomotives, as well as any losses or damages (property damage and/or injuries to persons) arising as a result of these defects, must be recorded in the locomotive handover book and confirmed by the signatures of both parties (locomotive drivers).
		4. If the handover is not conducted in the presence of both locomotive drivers, the locomotive must be properly parked and secured against movement. If, due to weather conditions, it becomes necessary to "actively park" the locomotive (In active parking mode, both collectors are raised, the main switch is on, and auxiliary drives are engaged, but the locomotive is blocked from moving under power and is not occupied by a locomotive driver), if the locomotive series allows, both carriers' dispatchers must be informed in writing, who will then inform the locomotive drivers.
		5. The provider declares that the locomotives are in a condition corresponding to their age, wear, and in a technical condition enabling their proper use in accordance with the purpose for which they will be used by the user. The locomotives are transferred for temporary use to the user with all components and accessories.
		6. The locomotives are provided to the user exclusively for the purpose of individual uses (performances), which are understood as: Leading pre-agreed freight trains from a specific railway station, to be specified on an operational basis and based on approved routes of infrastructure upon the request of the provider and the user.
		7. Neither party to the contract shall have the right to assert or enforce a lien on the locomotive or freight wagon owned by the other party to the contract.
		8. For all mutual transports and short-term leases of locomotives (see clause 4 of this contract), commercial and price conditions must be agreed in writing between the contracting parties before their commencement.
		9. This Contract does not regulate the obligation to pay fees for the use of locomotives by the other party to the contract, as these are always taken into account in the relevant agreements for the specific transportation project. The contracting parties are obliged to have all necessary permits for the performance of transports and traction performances under this contract and are obliged to inform about any change or revocation of these permits.
		10. Both contracting parties have liability insurance of a railway transport company. This must be provided upon request or in case of a change in the amount of insurance coverage, to the other party to the contract.
1. Rights and Obligations of the Parties
	* 1. The user declares that they are aware of the technical parameters and the real condition
		of the locomotives and agree with them.
		2. The user undertakes to handle the locomotives with due care and attention and to use them only within the scope of their ordinary activities in a manner consistent with the proper use of the item, exclusively for the purpose for which they are intended under this agreement. The user further undertakes to use only competent and properly trained personnel to operate the provider's locomotives.
		3. The user is liable for damages caused during the operation of the locomotives to third parties, except for damages caused by defects in the locomotive, for which the provider is responsible under this agreement. The user is obliged to allow the authorized person of the provider to inspect the condition, proper use, and handling of the locomotives.
		4. Upon taking over the locomotive, the user is responsible for all damages and losses caused to third parties or employees or property of the provider, including damages and/or losses caused by vehicles unless they can prove that such damage and/or loss was caused by the fault of the provider or its employees, including damages caused by defects in the locomotive, for which the provider is responsible under this agreement.
		5. Except in cases where the user proves that the aforementioned damage and/or loss was caused by the fault of the provider or the provider’s employees or defects in the locomotive, the provider is not liable, in particular, for any damage, loss of profit, and costs for delayed delivery of goods, financial loss, or damage and/or loss caused to the infrastructure, caused by the vehicle or vehicle attached to the locomotive.
		6. The user also acknowledges that by taking over the locomotives, there is no limitation and/or exclusion of any liability of the user in connection with the use of the locomotive.
		7. The user shall not allow the use of locomotives by any third party without the prior written consent of the provider. Locomotives cannot be used as collateral or subject to retention rights by the user.
		8. The user is responsible for the loss or theft of locomotives and is obliged to ensure that no loss or theft of locomotives occurs.
		9. The user is not authorized to perform any technical interventions in locomotives without the prior written consent of the provider unless expressly stated otherwise in this agreement.
		10. The user is obliged to have arranged insurance for the items taken over (locomotives, wagons) with the limit of insurance coverage for each locomotive at the minimum amount of 4,000,000 Euros, along with liability insurance in connection with the activity of a carrier.

The user is obliged to maintain the aforementioned insurance policy valid and effective for the entire duration of this agreement and to properly pay the agreed premiums. For the purpose of demonstrating compliance with the obligation stated in this article
of the agreement, the user is required to submit a valid insurance certificate (or its renewal during the term of the agreement).

* + 1. The user undertakes to comply with mandatory regulations on safety, hygiene, and environmental protection, and in case of their violation, undertakes to pay all fees, damages, and fines. Furthermore, the user undertakes to rectify, at the user’s own expense, any damages caused by violations of the aforementioned regulations by themselves or third parties on the locomotives.
		2. The user shall bear all the responsibilities arising from regulations on fire protection, their implementing regulations, technical standards, and regulations related to fire protection of locomotives and railway transportation operations, including ensuring fire prevention. In case of a breach of this commitment, the user bears full responsibility for any resulting damage.
		3. Unless otherwise agreed in specific cases, the user bears the costs of using the transportation infrastructure and consumed electrical energy within the scope of transports carried out under the user’s own license.
		4. The penalty for each failure to register the locomotive for electricity consumption, if required in the given country, is set at 500 EUR per case, in addition to the compensation for actual damages.
		5. Locomotive drivers of traction rail vehicles employed by users have the necessary professional qualifications, health fitness, and locomotive driver's license according to the relevant national regulations of the country of use, are physically fit, and are demonstrably trained to operate specific types of traction rail vehicles.
		6. In this regard, the provider is entitled to inspect the user's documentation at any time and also has the right to examine the user’s documentation, subject to compliance with the relevant data protection regulations.
		7. The party whose license railway transportation is operated on is liable for damages caused during the operation of traction rail vehicles to third parties.
		8. If the locomotive is returned in an inoperative state due to reasons on the user's side, the provider is entitled to compensation in the amount of the agreed rent until the day the respective traction vehicle is restored to an operable condition and for other damages incurred, especially those incurred for locomotive repair and its transportation to and from repair, regardless of the place or person of the repairer.
1. locomotive Maintenance and repairs
	* 1. The entity responsible for maintaining the locomotives is the provider.
		2. In the event of any damage to the locomotive or the discovery of a defect, whether operable or not, the user is obliged to inform the provider promptly about the approximate extent of the damage. Photographic documentation must always be provided in case of damage. The method and form of repairing the damaged locomotive are decided by the provider, and the user is informed about it before the repair begins. Alternatively, a joint inspection of the damaged locomotive may be conducted at the discretion of the provider with the participation of both parties to decide on the method and form of repair.
		3. In the event of damage to any locomotive in such a way that it cannot be repaired or in the case of uneconomical repair (if the repair costs exceed the value of the locomotive), the following procedure will be followed: The uneconomical or unfeasible repair of the specific locomotive will be determined by both parties through a written protocol signed by authorized representatives of the parties. If this protocol is not concluded within 30 calendar days from the written request of either party, the current value of the locomotive before
		the damage and the uneconomical or unfeasible repair will be definitively determined by one of the following entities:
2. A person agreed upon in writing by the parties as soon as possible, and in case of disagreement or any delays on the part of the user, a person from the list of experts maintained by the provider as designated by the relevant court.
3. If the leasing lessor insists on determining a specific person, the person designated by the leasing lessor shall prevail. The costs of the assessment mentioned above shall be borne by the parties according to proven fault.
4. Short-Term Rental of Locomotives beyond Cooperation
in Joint-Transport Projects
5. The contracting parties have agreed that this Agreement also applies to the provision of mutual short-term rentals or subleases of locomotives, even outside joint transportation projects, directly temporally and spatially connected to joint transportation projects (hereinafter referred to as "Short-term rental of locomotives"). The purpose of the Short-term rental of locomotives is to utilize the locomotive by the user within
the territory of the contracting party immediately after its utilization within
the framework of a joint transportation project, and when the provider does not have current utilization for the locomotives.
6. All provisions of this agreement regarding the handover and takeover of locomotives, rights and obligations of the parties, and provisions regarding repairs and maintenance apply in full to short-term rental of locomotives.
7. The conditions of each Short-term rental of locomotives will be agreed upon between the contracting parties in advance by concluding a Partial Lease Agreement via email communication, exclusively between the email EPC ………………..@..............
and the user's email ………………..@..............
8. An order made via email communication must include at least the specification of
the leased locomotive, the place and time of commencement and termination of the lease, the date and designation of the person who placed the order on behalf
of the ordering party, the amount of the rent, and any other conditions of the lease. The user undertakes to promptly confirm or reject such email orders or, if insufficiently specific, request the provider to specify them further. Confirmation, rejection, or request for supplementation will always be sent to the email addresses provided here. If the provider does not send confirmation, rejection, or request for supplementation
within 6 hours of receiving the order, it shall be deemed that the order was rejected by the provider.
9. If the user requests further specification, the order is considered still rejected, and to conclude the Partial Lease Agreement, the provider must resend a new order specified according to these requirements.
10. The Partial Lease Agreement is concluded by sending confirmation by the provider
as mentioned above, with the proof of such conclusion of the Partial Lease Agreement and its content being an email containing the confirmation.
11. Both contracting parties agree that for the purpose of concluding Partial Lease Agreements via email communication, compliance with the written form within
the meaning of § 562 para. 1 of the Civil Code of the Czech Republic is not required.
12. The provider maintains records of received orders and their corresponding confirmations, rejections, or requests for further specification, as well as records of the duration of the lease of specific locomotives. Both contracting parties consider this record reliable and sufficient to prove the facts contained therein. The record of the lease duration is based on the initial operational documentation relating to the leased locomotives (e.g., locomotive handover protocol, records from the order record mentioned here, etc.).
13. The user is obliged to immediately inform the provider's dispatch center of any incidents during the lease, especially accidents, breakdowns, damage to locomotives, anticipated failure to return the locomotive on time, etc. In such cases, the user is obliged to follow the provider's further instructions.
14. In case of delay by the user in returning the locomotive, the user undertakes, in addition to compensating for the damage, to pay the provider a one-time contractual penalty of EUR 1,000. In case of delay by the user in returning the locomotive for more than
2 hours for reasons not attributable to the provider, the user further undertakes, in addition to compensating for the damage, to pay the provider a contractual penalty
of EUR 100 for each subsequent commenced hour of such delay. In such a case, the provider also has the right to compensation in the amount of the agreed rent until
the actual return of the locomotive. If the locomotive is returned in an inoperable condition due to the user's fault, the provider is entitled to compensation in the amount of the agreed rent until the day the locomotive is put into operable condition, regardless of the place or person of repair.
15. The user is not authorized to further rent or sublease the leased locomotive or transfer it for use to third parties without the prior written consent of the provider. If the user does so regardless, the provider is entitled to a contractual penalty from the user in the amount of EUR 100,000, without prejudice to the right to compensation for any damages, even beyond the agreed contractual penalty.
16. The user undertakes to fill the locomotive only with locomotive-specific and approved operational materials. The user bears the costs of operational materials and energy.
The user is responsible for registering the locomotive for traction energy consumption and its payment. The provider will provide any necessary assistance, and any costs
for this provision or invoiced traction energy may be billed to the user. The penalty for each failure to register the locomotive for electricity consumption is EUR 500 per case.
17. In the event of a malfunction of the locomotive during the lease, given the specifics
of the service, the user is not entitled to replacement locomotives. The user has no right to compensation for damages. Defects that do not restrict the presumed use
of the locomotive, i.e. do not render the locomotive inoperable, and that do not have an impact on operational safety, do not entitle the user to any suspension of rent payment obligation.
18. Validity of the Agreement

This Agreement is concluded for an indefinite period .

This Agreement becomes valid and effective on the day of signing by the second contracting party .

Each of the contracting parties may terminate this Agreement without stating a reason. The notice period is six months and commences on the first day of the month following the delivery of the notice to the other contracting party.

The validity and effectiveness of this Agreement may also be terminated by written agreement of both contracting parties .

In the event of a material breach of the Agreement, the provider has the right
to withdraw from this Agreement with immediate effect. In the event of withdrawal,
the effects of withdrawal occur on the date of delivery of the written notice of withdrawal to the user. The notice shall be sent by registered mail and shall be deemed delivered even if the letter is returned as undeliverable. Withdrawal from the Agreement does not relieve the contracting parties of the obligation to settle the obligations arising from it.

For the purposes of this paragraph, a material breach of the Agreement by the user is considered to be::

* failure to settle invoices after the due date for more than 30 days;
* deployment of a third party without the prior written consent of the provider.

6. **CONTACTS**

(a) Any notice, request, or other communication to be made or given to a party under this agreement shall be made or given in writing unless otherwise provided in this agreement. Such notice, request, or other communication shall, unless otherwise provided in this agreement, be deemed duly made or given
to the other party if delivered personally, by registered mail, via data box, or by email to the address of the relevant party specified in this agreement or to such other address as the relevant party may specify in writing to the other party.

(b) The contact persons or details of the provider and the user under this agreement, unless expressly stated otherwise, are the persons listed in this agreement .

* 1. **Provider's contact details:**
	2. For contractual matters: Mgr. Jaromír Sládeček;
	3. tel: +420 607 671 532;
	4. email: Jaromir.Sladecek@eplogistics.cz
	5. For operational matters: Mario Kiša
	6. tel: +420 730 815 002
	7. email: Mario.kisa@epcargo.cz
	8. **User's contact details :**
	9. For contractual matters : …………………………..
	10. tel.: …………………………..
	11. email: …………………………………

 For operational matters: …………………………..

* 1. tel: …………………………..
	2. email: ………………………………….

(c) All contact persons and persons authorized to act on behalf of the parties under this agreement, addresses, telecommunication connections of persons listed in this agreement and/or bank account numbers may be changed by unilateral written notice delivered by the relevant party to the other party, with such change becoming effective upon the expiration of 10 business days from the delivery of such notice to the other party. The parties agree that the written form under this article is not maintained
for legal acts made by electronic or technical means within the meaning of the relevant provisions of the Civil Code, and the only written form is considered to be paper form.

7. **FINAL PROVISIONS**

(a) This agreement and all information and documents related thereto are confidential, and no party is entitled to disclose or otherwise make available such information or any information that is the trade secret of the other party to any third party or to use such information for its own benefit or the benefit of a third party, during the term of this Agreement and after its termination without time limit, except in cases where the disclosure of such information is required by law or competent authorities pursuant to legal regulations or if the information is already publicly available. The obligation
of confidentiality does not apply to communications made by both parties in accordance with the performance of this Agreement to professional advisors (especially legal advisors). If the obligation of confidentiality of these third parties does not arise from legal regulations, the relevant Party shall enter into an agreement with such persons on the confidentiality of the information provided. Furthermore, it is understood that
the obligation of confidentiality may be excluded or limited in each individual case by agreement of the parties.

(b) The Provider is entitled to unilaterally provide information subject to protection under this Agreement if it is required to do so based on valid legal regulations
and/or a final judicial, arbitral, or administrative decision, with the following conditions:

* The Provider is authorized to provide information only to the extent necessary to fulfill the obligation,
* The Provider will choose the most appropriate approach in the matter so
as to minimize interference with the confidential nature of the information.

In Ostrava …………………

For EPC ……………………..

For XYZ ……………………..