

### 2.7.15 Metra Warranty Claim

Where Metra undertakes its own repairs in accordance with the requirements and limitations above, Metra may file claims consistent with the notice provision no later than 90 days after performing said repairs. Metra shall submit to the Contractor a claim in writing for such costs and expenses ("Warranty Claim"). The Warranty Claim shall identify the Deficiency and the correction to which such costs and expenses are related, and shall provide such other information necessary to document the costs and expenses incurred by Metra and their relationship to the Deficiency and the correction. The Contractor shall reimburse Metra in a timely manner for all such costs and expenses within thirty (30) days after the Contractor's receipt of Metra's Warranty Claim.

## 2.8 LIQUIDATED DAMAGES

### 2.8.1 Generally

This Section is controlled by and intended to supplement the Liquidated Damages provision found in the General Conditions. Cars that unexpectedly have to be removed from revenue service and remain out of service cause significant damages to Metra's operations and reputation, and to the traveling public which depends upon Metra for timely and reliable daily service.

### 2.8.2 Removal from Service

For all Cars removed from service, Contractor or its sureties shall pay agreed liquidated damages at the rate of two hundred and fifty dollars (\$250) per day per Car until the Car is accepted back into service. Those damages are not readily susceptible to calculation. The parties to this Contract therefor agree that liquidated damages are appropriate compensation to Metra and unless specifically noted in this agreement, shall be the sole and exclusive remedy for cars taken out of service..

### 2.8.3 Delayed Warranty Response or Effective Corrective Action

In the event the Contractor breaches Section 2.7.6 Corrective Work Requirements, and the affected Metra Car remains out of service for more than 48 hours, Contractor shall pay to Metra as liquidated damages the sum of two hundred and fifty dollars (\$250) per day for every full day thereafter until Contractor provides the services and equipment otherwise required by Section 2.6.6 to be provided within 48 hours after Metra's notice of a Deficiency, or until the Car is returned to revenue service, whichever is first.

In any instance in which a Deficiency causes a Car to become unavailable for service, and the Contractor fails to complete a Warranty correction to such Deficiency within a time sufficient to enable the Car to be tested and returned to service within ten (10) calendar days after the Deficiency caused the Car to become unavailable for service, the Contractor shall pay to Metra as liquidated damages the sum of Two Hundred and Fifty Dollars (\$250.00) for each day that the Car is out of service, commencing with the first full out-of-service day after the expiration of the ten (10) day period. The ten (10) day period calculated pursuant to this paragraph shall not include reasonable transportation time to transport the Car from Metra to Contractor's repair facility. Liquidated damages will not exceed 20% of the Total Contract Price.

#### 2.8.4 Accrued Liquidated Damages

For purposes of liquidated damages for this section, payable on Metra's demand. Metra may, at its discretion, choose to accrue liquidated damages under this provision until there is no further possibility of additional liquidated damages.

## 2.9 PRICE SCHEDULE

### 2.9.1 Generally

Pricing includes design, manufacture, construction, fabrication, assembly, delivery, and all associated costs. No additional costs will be allowed, except for actual performance and payment bond costs. Price will be fixed for the base order of the contract. For optional vehicles, a price adjustment will be made annually during the contract period beginning twenty-four (24) months after NTP, based on the Producer Price Index for Railroad rolling stock manufacturing, published by the United States Department of Labor's Bureau of Labor Statistics (Series ID: PCU336510336510; Base Date: 198406).

The proposed unit price and the index value for the month and year of the date proposals are received will serve as the Base Index Value to determine the unit pricing for the Cars released in years 2 through 5. The Current Published Index Value will be the index value for the month and year of the date an option order is received. The unit pricing will be adjusted in accordance with the following example equation.

For Example: If the current published Index Value is 122.5, the Base Index Value is 122.1, and the base unit price is \$1,000,000, then the release order unit price would be:

$$122.5/122.1 \times \$1,000,000.00 = \$1,003,276.00$$

which represents a 0.3276% increase.

### 2.9.2 Base Index

Producer Price Index for Railroad Rolling Stock Manufacturing; Cars, new and rebuilt, including parts; (Series ID: PCU336510336510; Base Date: 198406)	
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### 2.9.3 Unit Pricing

The pricing table below must be completed in its entirety. Incomplete pricing proposals may be rejected.

Actual quantities will consist of the base order, plus any options ordered.

## 2.9.4 Prices

All costs, except surety costs, are fixed firm prices and cannot be changed except for non-base order items, in accordance with the price adjustment formula or as allowed by Metra.

The Engineering Costs referenced in this table are the costs required to:

- I. Prepare all drawings required for submittal and approval by the technical specifications;
- II. Prepare all engineering/technical documents required for submittal and approval by the technical specification;
- III. Prepare all test/inspection procedures required for submittal and approval by the technical specification; and
- IV. Perform and prepare reports for submittal and approval of all proof of design tests required by the technical specification.

### Key Benefits

- ▶ Prices per Unit provided in this document are valid according to the min/max assumptions in this procurement. Warranty costs are assumed for all items on the below price table.
- ▶ Prices for Non-Base Order Trainsets and Cars are only valid if ordered with no production break with the last Order. In case of a production break non-recurring costs have to be agreed upon. **18**
- ▶ In order to have no production break the Non-Base Order Trainsets and Cars have to be ordered latest 24 months before scheduled release for shipment of the last trainset of the last order or a mobilization fee is applicable.
- ▶ Spare Parts prices listed in this Price Table are valid if ordered with the Series of the Base Order.

Item Description	Unit Price	Quantity	Total Price
A1. 2-Car Battery Trainsets with End Couplers per Metra Specification M-22-001 (Rev. D) [AAR Type H Tightlock] (D/E)	\$ 12,635,000.00	16	\$ 202,160,000.00
A2. 2-Car Battery Trainsets with End Couplers per Metra Specification M-22-001 (Rev. D) [Scharfenberg Type 10] (D/E)	\$ 12,635,000.00	16	\$ 202,160,000.00
B. Trailer Car with Toilet (D/E)	\$ 2,534,090.00	16	\$ 40,545,440.00
C. Trailer Car without Toilet (D/E)	\$ 2,430,060.00	16	\$ 38,880,960.00
D. Engineering Costs (A)	N/A	N/A	\$ 29,974,000.00
E. Training Costs (B)	N/A	N/A	\$ 975,075.00
F1. Payment & Performance Bonds for Base Order, 8 Trainsets, per Section 2, Special Conditions, Sections 2.2	\$ 3,922,000.00 [Not-to-exceed]	1	\$ 3,922,000.00 [Not-to-exceed]
G1. Payment & Performance Bonds for Non-Base Order, 8 Trainsets, per Section 2, Special Conditions, Sections 2.2	\$ 490,250.00 [Not-to-exceed]	8	\$ 3,922,000.00 [Not-to-exceed]
H1. Payment & Performance Bonds for Non-Base Order, 16 Trailer Cars, With Toilet per Section 2, Special Conditions, Section 2.2	\$ 78,655.00 [Not-to-exceed]	16	\$ 1,258,480.00 [Not-to-exceed]
I1. Payment & Performance Bonds for Non-Base Order, 16 Trailer Cars, Without Toilet per Section 2, Special Conditions, Section 2.2	\$ 74,950.00 [Not-to-exceed]	16	\$ 1,199,200.00 [Not-to-exceed]
F2. Warranty Bond for Base Order Trainsets, All Spare Parts, and All Specialty Tools, per Section 2, Special Conditions, Section 2.2	\$ 196,100.00 [Not-to-exceed]	1	\$ 196,100.00
G2. Warranty Bond for Non-Base Order Trainsets, All Spare Parts, and All Specialty Tools, per Section 2, Special Conditions, Section 2.2	\$ 24,512.50 [Not-to-exceed]	8	\$ 196,100.00
H2. Warranty Bond for Trailer Car with Toilet per Section 2, Special Conditions, Section 2.2	\$ 3,950.00 [Not-to-exceed]	16	\$ 63,200.00
I2. Warranty Bond for Trailer Car without Toilet per Section 2, Special Conditions, Section 2.2	\$ 3,756.25 [Not-to-exceed]	16	\$ 60,100.00
J. Documents & Warranty Costs (C)	N/A	N/A	\$ 8,261,600.00

Spare Parts			
K. Carbody Roof Section (1) Part # _____	\$ N/A	1	\$ N/A
L. Carbody Side Section (1) Part # _____	\$ N/A	2	\$ N/A
M. Carbody End Section (1) Part # _____	\$ N/A	4	\$ N/A
N. Wheelchair Lift (2) Part # _____	\$ 52,500.00	4	\$ 210,000.00
O. Low Voltage Power Supply (3) Part # _____	\$ 57,000.00	2	\$ 114,000.00
P. A/C Unit (4) Part # _____	\$ 144,000.00	4	\$ 576,000.00
Q. Truck Complete "B" End (5) Part # _____	\$ 281,000.00	1	\$ 281,000.00
R. Truck Complete "A" End (6) Part # _____	\$ 469,000.00	1	\$ 469,000.00
S. Battery Bank (Lowest Replace Unit) (7) Part # _____	\$ 116,000.00	10	\$ 1,160,000.00
T. Traction Motor Part # _____	\$ 71,000.00	4	\$ 284,000.00
U. Wheel-Axle-Gear Unit (8) Part # _____	\$ 48,000.00	4	\$ 192,000.00

(1) Line A: Stadler is proposing a multiple unit FLIRT which consists of two (2) cab-cars and a PowerPack for each trainset. The PowerPack is the most service proven, risk averse option for Metra, mitigating any unforeseen risk from the infrastructure or grid performance. Therefore, the Unit Price shown is for one complete trainset including the two (2) cab-cars and PowerPack for one (1) trainset including wheelchair lifts. The Unit Price is based on the minimum base order of eight (8) trainsets, not sixteen (16) trainsets.

- (2) Line B: The number stated is for 2 to 16 cars. If only one were to be ordered the price would be \$3,904,000.00. A mobilization fee is applicable for each call-off, to be negotiated.
- (3) Line C: The number stated is for 2 to 16 cars. If only one were to be ordered the price would be \$3,801,000.00. A mobilization fee is applicable for each call-off, to be negotiated.
- (4) Line D: The Engineering Costs (A) Total Price shown is a fixed cost and would not change when procuring eight (8) or sixteen (16) trainsets in any configuration (2-car, 3-car and 4-car).
- (5) Line E: The Training Costs (B) Total Price shown is fixed and would not change when procuring eight (8) or sixteen (16) trainsets. This assumes Stadler's proposed Train-the-Trainer model is accepted. If a fully compliant training program is required the cost is \$5,805,000.00.
- (6) Lines F1-I1: The performance bond values are not to exceed values per the contract. These values are based on a cost rate of .52% for six (6) years which is the assumed duration from NTP to conditional acceptance of the final vehicle.
- (7) Lines F2-I2: The warranty bond values are not to exceed values per the contract. These values are based on a cost rate of .52% for three (3) years.
- (8) Line J: The Documents & Warranty Costs (C) Total Price shown is a fixed cost for Documents & Warranty of all items listed on the price table. If only ordering eight (8) trainsets the Warranty Costs may decrease depending on the schedule but the Documents cost would remain the same. The Documents cost is independent of what is ordered, the base order documentation will address a 2- car, 3-car, and 4-car configuration when created for the base order. This can be further discussed with Metra to resolve any remaining concerns.
- (9) Lines K-M: In case there is an impact to the side wall that will have to be repaired it is either going to be welded or cut out and replaced with a small piece welded into it again. Those repairs are rather easy to perform with the qualified workforce. With that being said it does not make sense to buy a roof or side wall.
- (10) Line N: Wheelchair lifts have been incorporated into the vehicle concept. Price shown is for four (4) spare lifts.
- (11) Line O: Low Voltage Power Supply consists of one (1) Set of a Battery primary system, Starter Battery and Battery Charger (1 of each).
- (12) Line P: A/C Unit consists of one (1) unit of Passenger Compartment HVAC and one (1) unit of Drivers Cab HVAC.
- (13) Truck Complete "B" End represents a fully assembled Jacobs Trailer Truck (1 unit)
- (14) Truck Complete "A" End represents a fully assembled Motor Truck (1 unit)
- (15) Price for one (1) Gearbox Unit

<b>Specialty Tools</b>			
****Specialty Tools and Test & Diagnostic Equipment (Per Section 20.9 of Technical Specification M-22-001)	\$ 500,000.00	1	\$ 500,000.00
<b>Grand Total Cost [AAR Type H Tightlock Coupler]</b>			<b>\$ 335,400,255.00</b>
<b>Grand Total Cost [Scharfenberg Type 10 Coupler]</b>			<b>\$ 335,400,255.00</b>

\*\*\*List of Special Tools shall be defined in case of Award of Contract and agreed upon between both parties. Stadler estimates that a Budget of \$500,000.00 should be sufficient to purchase all Special Tools necessary for execution of standard maintenance, service and warranty works on the Flirt BEMU Fleet. This would include the Diagnostic Equipment necessary to perform various diagnostics on the trainsets. Stadler offers State of the Art Diagnostic equipment which consists of (2) Personal Computers with various Software’s provided by the major subsystem suppliers.

**2.9.5 Financing**

Bidders are requested to provide financing options in addition to the unit prices above, with clear title to the Cars being provided on final payment. Bidders may decide not to provide financing options or bidders may provide a financing option with monthly payments for twenty (20) years, commencing on Conditional Acceptance. Financing institutions may be a part of multiple bids; they need not limit themselves to partnering with a single bidder.

It is assumed that bidders would offer financing terms based upon a spread over and established benchmark in place at the time of Conditional Acceptance of each Car with payments to begin in the following month. Each proposed financing option shall include a description of the financing terms (such as “prime rate plus 0.5%”) and a schedule of payments as if the deal had been executed October 1, 2022 with rates in place at the close of that business day, so Metra has a numerical example of the exact calculation.

Metra will discount the proposed payments, using internal discount rates it determines, and value the options accordingly. The purchased Rail Cars would be the sole collateral for this purchase.

**2.9.6 Milestone Payment Schedule**

Payments for the surety costs and line items A through C shall be made in accordance with the following schedule:

Item	Payment %	Cumulative %	Base for Calculation	Description
Approval Master Program Schedule, Quality Management Plan and Project Management Plan	9.0%	9.0%	Total of A+B+C+D/E	Payable at Approval of Master Program Schedule, Quality Management Plan and Project Management Plan
PDR	3.0%	12.0%	Total of A+B+C+D/E	Payable at Approval of Preliminary Design Review
IDR	2.5%	14.5%	Total of A+B+C+D/E	Payable at Approval of Intermediate Design Review
FDR	10.0%	24.5%	Total of A+B+C+D/E	Payable at Approval of Final Design Review
Draft Manuals	1.5%	26.0%	Total of A+B+C+D/E	Payable at Approval of Draft Manuals
Final Printed Manuals	2.0%	28.0%	Total of A+B+C+D/E	Payable at Submittal of Final Printed Manuals
Draft Training Material	1.5%	29.5%	Total of A+B+C+D/E	Payable at Approval of Draft Training Materials
Performance of Training	3.0%	32.5%	Total of A+B+C+D/E	Payable after performance of Training
Procurement of Major subsystem	10.0%	42.5%	Total of A+B+C+D/E	Payable at presentation of proof of Procurement of Major subsystems*
Closure of FAI for Major subsystem	10.0%	52.5%	Total of A+B+C+D/E	Payable at Approval of FAI for Major subsystems*
Carbody shells completion for Trainset 01	3.0%	55.5%	Total of A+B+C+D/E	Payable at Approval of FAI for first Carbody shells for Trainset 01
Completion Carbody shells (per Trainset)	18.0% (per Trainset)	73.5%	Total of A+B+C+D/E divided by number of Trainsets	Payable at Completion of Carbody shells for every Trainset
Release for shipment (per Trainset)	17.5% (per Trainset)	91.0%	Total of A+B+C+D/E divided by number of Trainsets	Payable at Release for Shipment of every Trainset

Conditional acceptance (per Trainset)	7.5% (per Trainset)	98.5%	Total of A+B+C+D/E divided by number of Trainsets	Payable at Conditional Acceptance of every Trainset
Final acceptance (per Trainset)	1.5% (per Trainset)	100.0%	Total of A+B+C+D/E divided by number of Trainsets	Payable at Final Acceptance of every Trainset

Additional Orders:

Update of Master Program Schedule for the Options In Option Call	10.00%	10.00%	Total of A+B+C+D/E	Payable at approval of updated schedule for additional trains
Procurement of Major subsystem for options	20.00%	30.00%	Total of A+B+C+D/E	Payable at presentation of proof of Procurement of Major subsystems*
Completion Carbody shells (per Trainset)	30.00%	60.00%	Total of A+B+C+D/E divided by number of Trainsets	Payable at Completion of Carbody shells for every Trainset
Release for shipment (per Trainset)	25.00%	85.00%	Total of A+B+C+D/E divided by number of Trainsets	Payable at Release for Shipment of every Trainset
Conditional acceptance (per Trainset)	10.00%	95.00%	Total of A+B+C+D/E divided by number of Trainsets	Payable at Conditional Acceptance of every Trainset
Final acceptance (per Trainset)	5.00%	100.00%	Total of A+B+C+D/E divided by number of Trainsets	Payable at Final Acceptance of every Trainset

\*The List of Major subsystems is:

<b>Major Subsystem</b>
Carbody shell
Wheelsets (Motor** and Trailer)
**Motor Wheelsets incl. Traction Motor, Gearbox, Brake equipment and bearings
Motor Trucks and Trailer Trucks
Traction Converter
Automatic Couplers
Passenger Seats
Passenger Information System
Passenger Door system

Brake System
Traction Batteries
Batteries for Auxiliary power
Passenger Windows
HVAC System
Driver's Desk
Front Mask



during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### 3.5 CIVIL RIGHTS REQUIREMENTS

Metra is an Equal Opportunity Employer. As such, Metra agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, Metra agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees



### 3.9 FLY AMERICA REQUIREMENTS

a) *Definitions.* As used in this clause-

“International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

- b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

#### **Statement of Unavailability of U.S.-Flag Air Carriers**

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [*State reasons*]:

The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

### 3.10 TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS

Omitted.

### 3.11 DRUG AND ALCOHOL TESTING

The Contractor agrees that it has a drug and alcohol program established in compliance with 49 CFR 655.

### 3.12 PATENT RIGHTS

The following requirements apply to each contract involving experimental, developmental, or research work:

General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, Metra and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), Metra and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

### 3.13 COPYRIGHT AND RIGHTS IN DATA

The following requirements apply to each contract involving experimental, developmental or research work:

The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or

approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

Any subject data developed under that contract, whether or not a copyright has been obtained; and

Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

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Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

### **3.14 ENERGY CONSERVATION REQUIREMENTS**

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

### **3.15 ASSIGNABILITY CLAUSE**

See General Conditions 1.12.23

### **3.16 TERMINATION**

See General Conditions 1.12.8 and 1.12.9

### **3.17 RECYCLED PRODUCTS**

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

### **3.18 SUSPENSION AND DEBARMENT**

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to

Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Metra. If it is later determined by Metra that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Metra, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **3.19 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

The Contractor agrees:

- a) It will not use any violating facilities;
- b) It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;”
- c) It will report violations of use of prohibited facilities to FTA; and
- d) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

### **3.20 BUY AMERICA REQUIREMENTS**

The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11..

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification with all bids or offers on FTA-funded contracts, except those subject to a

general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

### **3.21 BREACHES AND DISPUTE RESOLUTION**

See General Conditions 1.12.9 and 1.15.4.

### **3.22 ADA ACCESS AND ACCESSIBILITY**

A third party contractor providing public transportation services must operate its services in compliance with 42 U.S.C. Sections 12101 et seq.; DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)" using facilities and equipment that comply with 49 CFR Part 37; and Joint ATBCB/DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38. Private entities must comply with the requirements of 49 CFR Part 37 applicable to public entities with which they contract to provide public transportation services. The recipient should advise its third party contractors operating public transportation services to review the requirements for public entities in this context.

### **3.23 PRE-AWARD AND POST-DELIVERY AUDIT REQUIREMENTS**

The Contractor agrees to comply with 49 USC § 5323(m) and FTA's implementing regulation at 49 CFR Part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

### **3.24 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.

The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.

The Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

### **3.25 SAFE OPERATION OF MOTOR VEHICLES**

#### **3.25.1 Seat Belt Use**

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Metra.

#### **3.25.2 Distracted Driving**

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

**4 SIGNATURE PAGE**

**Stadler US, Inc.**

By execution below by a duly authorized representative of Stadler US, Inc., Stadler US, Inc., hereby states that it has reviewed and approves of each page it has initialed.

Name of Authorized Signer:

Martin Ritter

Lucy Andre

Title of Authorized Signer:

Chief Executive Officer

General Counsel

Authorized Signature

Date

Initials of Authorized Signer

**Metra**

By execution below by a duly authorized representative of Metra, Metra, hereby states that it has reviewed and approves of each page it has initialed.

Name of Authorized Signer:

Sean R. Cronin

Title of Authorized Signer:

Senior Director, Mechanical Capital Projects

Authorized Signature

Date

Initials of Authorized Signer

# **CONTRACT DOCUMENTS**

## **Sections 4**

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**Contract No. PA0002045**

### **NEW BATTERY POWERED TRAINSETS**

- **Section 4: Technical Specifications and Appendices**



**Mechanical Department**

**Technical Specification for  
Battery Powered Trainset**

**SPECIFICATION No. M-22-001**

**REVISION: Revision D**

**DATE: 01/22/2024**

Date: 01/22/2024	Document No. M-22-001	Page: 1 of 181	Prepared By: F. Mascarenhas	Revision: Rev. D	Approved By: <i>Francis Mascarenhas</i>
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Initials SRC  
Metra

Initials *[Signature]*  
Stadler

## RECORD OF REVISIONS

REVISION	PREPARED BY	DATE	DESCRIPTION	APPROVED BY	DATE
First Issue	F. Mascarenhas	1/24/2022	Spec for Battery Powered Trainset	<i>Francis Mascarenhas</i>	1/24/22
A	F. Mascarenhas	04/22/2022	Removed original Section 1.3.4 Revised Sections 1.3.4; 1.3.5; 1.3.7; 1.3.8; 8.1.1.2; 8.6.3.5; 15.3.1.3; 15.7.1; 16.8.1; 17.1.1.3; 19.3.19; 22.1.14; 23; 23.10.1.13; 23.10.2.4; 23.10.4.5; 23.10.4.6; 23.10.5.4; 23.10.5.13.2	<i>Francis Mascarenhas</i>	4/22/22
B	F. Mascarenhas	09/12/2022	Revised Section 6.1.2	<i>Francis Mascarenhas</i>	09/12/2022
C	F. Mascarenhas	10/26/2022	Revised Section 6.1.4	<i>Francis Mascarenhas</i>	10/26/2022
D	F. Mascarenhas	01/22/2024	Revised all sections of specification following negotiations with Stadler	<i>Francis Mascarenhas</i>	01/22/2024

NOTE: This document is to be considered "uncontrolled" when printed as a hardcopy from the network. The revision level must be verified prior to use.

Date: 01/22/2024	Document No. M-22-001	Page: 2 of 181	Prepared By: F. Mascarenhas	Revision: Rev. D	Approved By: <i>Francis Mascarenhas</i>
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Metra

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Stadler