

Amendment No. 9
to
Agreement on Transfer of Movable Assets for Consideration and
Subsequent Lease Back of Means of Transport

entered into by and between the following Parties:

The Seller / Lessee

Business name: **Železničná spoločnosť Cargo Slovakia, a.s.**
Registered office: Drieňová 24, 820 09 Bratislava, Slovak Republic
Registration: with the Commercial Register of the Bratislava I District Court;
Section Sa, Insert No. 3496/B
Comp. ID: 35 914 921
Represented by: Ing. Roman Gono, Chairman of the Board of Directors
Ing. Miroslav Hopta, Vice-chairman of the Boards of Directors and
Operations Division Director

(hereinafter referred to as the **“Seller”** or as the **“Lessee”**)

and

The Buyer / Lessor

Business name: **Cargo Wagon, a.s.**
Registered office: Lúčna 2, 821 05 Bratislava, Slovak Republic
Registration: with the Commercial Register of the Bratislava I District Court;
Section Sa, insert No. 5889/B
Comp. ID: 47 523 441
Represented by: Ing. Pavel Holomek, Chairman of the Board of Directors
Mr. Amit Shantilal Thacker, Member of the Board of Directors

(hereinafter referred to as the **“Buyer”** or as the **“Lessor”**)

(the Seller / Lessee and the Buyer / Lessor are hereinafter jointly referred to as the **“Parties”** or individually to any of them as the **“Party”**).

PREAMBLE

On 18 May 2015, the Parties concluded the Agreement on Transfer of Movable Assets for Consideration and Subsequent Lease Back of Means of Transport, as amended (hereinafter referred to as the “**Agreement**”).

Since the beginning of January 2020, coronavirus disease 2019 (COVID-19) caused by the SARS-CoV-2 virus has spread throughout the entire world causing a worldwide pandemics with substantial negative impacts on the economic environment (hereinafter referred to as the “**COVID-19 Pandemics**”). The effects of the COVID-19 Pandemics on the economic activities of the Lessee are becoming increasingly negative and disruptive. As a result, the Parties acknowledge that the Lessee has suffered economic damage due to the COVID-19 Pandemics which was not foreseeable at the time of signing of the Agreement and therefore agreed on the benefits for the Lessee as stipulated herein particularly in form of a discount specified below and advancing passing of capital expenditure savings from the Lessor to the Lessee.

ARTICLE 1

SUBJECT OF AMENDMENT

1.1 RETIREMENT OF RAILWAY CARRIAGES

1.1.1 Retirement of Railway Carriages

The Lessee has informed the Lessor of its desire to retire from the fleet 98 (to wit: Ninety-eight) Leased Carriages. In line with Clause 25.3 of the Agreement, the Parties have agreed that the number of the Leased Carriages shall be decreased whereas the list of Leased Carriages in the original Annex No. 2 (Leased Carriages) to the Agreement shall be replaced by the new Annex No. 2 (Leased Carriages) to the Agreement, which is attached to this Amendment as Annex A and creates its inseparable part. The Parties further agree that the period for return of the aforementioned Railway Carriages shall be no later than within sixty (60) days from the date of expiry of the Periodic Maintenance and Technical Checks I.

The Parties further agree that the daily rent will be adjusted as of 1 January 2021 based on the same mechanism as in Amendment No. 8 including the impact from inflation indexation in line with Clauses 14.5 and 14.6 of the Agreement.

1.1.2 Disposal of Retired Railway Carriages

The Parties hereby acknowledge that the Railway Carriages retired from the Lease pursuant to Clause 1.1.1 of this Amendment, shall no longer be part of the Lease and shall be returned to the Lessor, hence the Lessor may dispose these retired Railway Carriages at its discretion.

The Parties shall follow the provisions of the article 18.1 of the Agreement for hand-over of the retired Railway Carriages. Moreover, in addition to the foregoing, the Parties agreed on specific process for the retired Railway Carriages intended for scrapping as follows:

- a) The Lessor will inform the Lessee in writing which **Railway Carriages are due to scrapping** no later than fifteen (15) working days prior to the expected date of hand-over. The Lessee shall at his expense deliver the Railway Carriages in groups of cca 30 pcs to the siding of the company W.O.L.F. s.r.o., Areál AGRONOVÁZ, Nové Mesto nad Váhom – siding no. 52 500. The Railway Carriages shall be empty and clean (including interior cleaning of the tank-wagons to the degree necessary for safe scrapping).
- b) For the avoidance of any doubts the Parties agreed that shall the Lessor decide **to keep or to sell or otherwise dispose of certain retired Railway Carriage(s)**, he must notify the Lessee in writing as soon as possible and no later than fifteen (15) working days prior to the expected date of hand-over of such retired Railway Carriage(s). The Lessor shall agree with the Lessee on a place for handover of such retired Railway Carriage(s) within the railway infrastructure of ŽSR, whereas if no agreement is reached, then the Lessor shall inform the Lessee on such place. The return of the retired Railway Carriage(s) shall happen according to article 18.1 of the Agreement.

1.1.3 Capital Expenditure Savings

Due to the decrease of the number of the Leased Carriages resulting from the retirement of certain Leased Carriages as envisaged in Clause 1.1.1 of this Amendment, the Lessor shall accumulate certain capital expenditure savings in the amount of 561,400 EUR (to wit: Eight hundred and thirty three thousand, four hundred and ninety Euros) (hereinafter referred to as the “**CAPEX Savings**”) which represents the capital expenditure savings for the period of calendar years of 2020 and 2021.

1.1.4 Wheelsets Exchange

The Parties agree that due to the retirement of the Railway Carriages referred to in Clause 1.1.1 of this Amendment, the total number of Wheelsets Exchanges according to 16.19 through 16.24 of the Agreement, to be performed by the Lessor during the period up to July 2023 will be 7,560 Wheelset Exchanges.

In this regard, Section 16.20.1 of the Agreement (*Wheelset Exchange*) shall be replaced with the following wording:

“16.20.1 The Lessor shall perform the Wheelset Exchanges during the Periodic Maintenance and Technical Checks I in the total amount of 7,560 Wheelset Exchanges. The limits for the Wheelset Exchanges are determined separately for each calendar year (from 1 January to 31 December) for the duration of the term of Lease. The Parties have agreed that during the calendar year 2020 the limit is 859 Wheelset Exchanges. The Parties shall always agree, in writing by September of the respective year, on the limit of the Wheelset Exchanges for the period of the next calendar year (i.e. for the first time in September 2020 for the calendar year 2021). Should the Parties fail to agree for whatever reason, the limit of 727 Wheelset Exchanges shall apply for a particular year if there is no agreement reached for the period of the calendar years 2021 to 2022. In the calendar year 2023, the Lessor shall carry out the remaining number of the Wheelset Exchanges, which shall be determined as the difference between the total number of 7,560 Wheelset Exchanges and the sum of the Wheelset Exchanges carried out till the year 2022 (inclusive), unless the Parties agree otherwise. For the avoidance of doubts, if in any calendar year the determined limit of the Wheelset Exchanges is not reached, the remaining number of the Wheelset Exchanges shall increase the limit in the following calendar year of the term of Lease, unless such Wheelset Exchanges are compensated by the Lessor according to Section 16.20.5 hereof.”

1.2 PROVISION OF DISCOUNT ON INVOICES

The Parties have agreed that for the limited period of June 2020 to December 2020 both inclusive (hereinafter referred to as the “**Temporary Discount Period**”), the Lessor will provide the Lessee with a monthly discount of 70,000 (seventy thousand) Euros without VAT from the Invoices for the relevant month, amounting to a total of 490,000 (four hundred and ninety thousand) Euros without VAT for this Temporary Discount Period (hereinafter referred to as the “**Temporary Discount 1**”).

Moreover, the Parties have agreed that for the Temporary Discount Period, the Lessor will provide the Lessee also with a discount of in the total of 500,000 (five hundred thousand) Euros without VAT for the whole Temporary Discount Period from the respective Invoices for the removal/repair of the violent damages (hereinafter referred to as the **“Temporary Discount 2”** and together with **Temporary Discount 1** as **“Temporary Discount”**) whereas for such Invoices the Temporary Discount 1 does not apply.

In case that the Lessee paid any Invoice for any month of the Temporary Discount Period which is subject to the Temporary Discount prior to the effectiveness of this Amendment, and therefore the monthly amount of the Temporary Discount was not applied in case of such Invoice, the Lessor will issue a credit note for the Lessee in the amount of the Temporary Discount for such relevant month.

1.3 ADVANCING PASSING OF CAPITAL EXPENDITURE SAVINGS

The Parties have further agreed that the date in Article 1 Clause 4 subsection b) of the Amendment Number 8 to the Agreement signed on 12 February 2020, stipulating the deadline for passing of certain capital expenditure savings from the Lessor to the Lessee in the amount EUR 530,852 under the conditions stipulated therein is changed from 31 March 2021 to 31 December 2020.

1.4 TEMPORARY SUSPENSION OF PERIODIC MAINTENANCE AND TECHNICAL CHECKS I

The Lessee has informed the Lessor that due to capacity reasons some of the Leased Carriages are currently not actively operated by the Lessee and therefore temporarily idle. As a result of the foregoing, 200 Leased Carriages are not fully utilized by the Lessee (hereinafter referred to as the **“Inactive Carriages”**) and therefore not subject to wear and tear to the same extent as the rest of the Leased Carriages that are fully and actively operated by the Lessee. The Lessee also informed the Lessor that as a result of the foregoing the preventive maintenance, repairs and technical checks are not required in regard to such Inactive Carriages in the same scope as in case of actively operated Leased Carriages due to their low utilization. In this regard the Lessee has requested the Lessor to temporary suspend all Periodic Maintenance and Technical Checks I related to the Inactive Carriages.

For avoidance of doubt the Lessee hereby warrants and represents that the temporary suspension of the Periodic Maintenance and Technical Checks I hereunder shall have no

impact on due and timely payments of the Rent by the Lessee as agreed in the Agreement. The Lessee undertakes not to hold the Lessor liable for and to hold the Lessor harmless against any potential claims that could otherwise result due to any reason from suspension of the Periodic Maintenance and Technical Checks I that have been requested by the Lessee hereunder.

The suspension of the Periodic Maintenance and Technical Checks I in relation to the Inactive Carriages requested herein is agreed for a definite period of time until 31 January 2021, whereas the Parties hereby undertake to negotiate in good faith a permanent solution for such suspended Periodic Maintenance and Technical Checks I and the Parties shall exercise their best efforts to agree on such solution and sign the relevant amendment until 31 January 2021, whereas such agreement and the relevant amendment will, as the Parties agree, reflect and take into account also the provided Temporary Discount 2. In case that no such permanent solution is agreed or the relevant amendment signed within the agreed deadline, the Parties shall agree on reasonable periods within which the suspended Periodic Maintenance and Technical Checks I will be performed.

ARTICLE 2

FINAL PROVISIONS

- 2.1 This Amendment becomes valid on the day of its signing by both Parties and effective on the day following the day of publication hereof in accordance with the provisions of Act No. 211/2000 Coll., on Free Access to Information and on amendments and supplements to certain other acts (the Freedom of Information Act), as amended.
- 2.2 This Amendment shall be an integral part of the Agreement. This Amendment has been executed in six (6) counterparts in the Slovak and English languages; each Party shall receive three (3) counterparts in each language version. In the case of any discrepancies or disputes on interpretation between the English and Slovak versions, the English version shall prevail.
- 2.3 The capitalized terms have the same meaning as in the Agreement and in the respective Amendments to it.
- 2.4 The remaining provisions of the Agreement not affected by this Amendment shall remain unchanged and valid.
- 2.5 The Parties represent that they have read this Amendment carefully, have understood the contents of this Amendment and the contents hereof represent their actual and free will, free of any misunderstandings. The Parties consider their expressions of will contained in this Amendment to be certain and clear, not expressed in distress or under flagrantly unfavourable conditions. The Parties are not aware of any circumstances which could cause invalidity of any of the provisions of this Amendment. In witness of their consent to the contents of this Amendment, the Parties have attached their signatures hereunder.

[SIGNATURES OF THE PARTIES ARE ON THE FOLLOWING PAGE]

On behalf of **Železničná spoločnosť Cargo
Slovakia, a.s.**

Name and surname: Ing. Roman Gono
Position: Chairman of the Board of Directors
In Bratislava, on:

Name and surname: Ing. Miroslav Hopta
Position: Vice chairman of the Board of
Directors
In Bratislava, on:

On behalf of **Cargo Wagon, a.s.**

Name and surname: Ing. Pavel Holomek
Position: Chairman of the Board of Directors
In Bratislava, on:

Name and surname: Amit Shantilal Thacker
Position: Member of the Board of Directors
In Bratislava, on: