



**REQUEST FOR PROPOSAL (“RFP”) – EXHIBIT U-4
SINGLE LEVEL FLEET REPLACEMENT PROGRAM - EQUIPMENT
NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)
1 Massachusetts Ave NW, Washington DC 20001**

EXHIBIT U-4 SAMPLE MOVEMENT AGREEMENT

EQUIPMENT MOVEMENT AGREEMENT

This Agreement is made and entered into as of _____, by and between: _____ (“Shipper”), with offices at _____, desires that the **National Railroad Passenger Corporation** (“Amtrak”), a corporation organized under 49 U.S.C., § 24101 et seq., and the laws of the District of Columbia with offices at 1 Massachusetts Avenue, N.E., Washington, DC 20001. Amtrak and Shipper are sometimes individually referred to as a “Party” and collectively referred to as the “Parties”.

RECITALS

WHEREAS, Shipper desires to have Amtrak move certain rail equipment (“Equipment”) as described herein;

WHEREAS, Amtrak is willing to move the Equipment on the terms and conditions set forth herein;

NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

ARTICLE I. TRANSPORTATION SERVICES

101. The Equipment, which is owned by Shipper, is comprised of _____ moving on its own wheels in accordance with Section 102 below.
102. Upon thirty (30) days notification from Shipper, Amtrak shall endeavor to retrieve the Equipment from Shipper’s facility in _____ and transport the Equipment by rail to _____ and back to _____. Prior to transport by Amtrak, Shipper must complete the pre- shipping form as agreed under the Trainset Contract and such pre-shipment form must be approved in writing by Amtrak. Amtrak shall designate the planned route and switching locations prior to getting the Equipment.
103. Amtrak’s obligation shall be limited to providing the Transportation within the limits of its existing equipment, facilities, labor agreements, authority and operating rules. The Transportation includes for example train and engine crews necessary to move the Equipment (e.g., coupling, uncoupling, switching, movement of Equipment), but does not include any additional services (e.g.,

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Amtrak will provide no security). Shipper must pay the full cost of any additional services not set forth in Schedule A it requests that are not directly involved in the Transportation, including but not limited to security.

104. Amtrak will, in consultation with Shipper, select the schedules, routes and trains to provide the Equipment Transportation. Amtrak may change or cancel such schedules, routes or trains if operational or mechanical circumstances arise (e.g., holiday schedules, equipment or track constraints, adverse weather conditions, governmental prohibitions, etc.) which, in Amtrak’s opinion, require such change or cancellation. As soon as practicable, Amtrak shall notify Shipper of such changes and advise the revised routes and/or schedules. Amtrak will deliver the Equipment in accordance with the schedule set forth in Table 1.

Table 1-Movement Schedule

Equipment	Pick-up Location	Delivery Location	Transit Time in Days (Estimated)

105. The Transportation is not intended to be nor shall it be revenue service by Shipper. Shipper acknowledges that any and all Party or Shipper Parties that may accompany the movement of Equipment and ride in the Equipment and/or in Amtrak’s rolling stock while the movement of the Equipment is underway will: 1) do so at the sole risk of the Shipper, and the Shipper shall indemnify, defend and hold harmless Amtrak, its officers, directors, employees and agents in accordance with Section 402 of this Agreement for injury, including death, to that Shipper Party; and 2) strictly comply with the instructions of Amtrak or employees from other railroads as required in Section 107 of this Agreement. The term “Shipper Party or Shipper Parties” as used herein, means any person, including any employee, subcontractor or agent of Shipper, on the Equipment while it is being moved by, or is under the care, custody or control of, Amtrak (other than an Amtrak employee or authorized Amtrak agent). Shipper is required to provide at least one (1) Shipper Party that is a certified technician for the Equipment from the Pickup Location to the Delivery Location.
106. No persons or property of Amtrak will be carried on the Equipment during the Transportation without Shipper’s advance permission.
107. For purposes of ensuring safe transportation, Amtrak (and the railroads owning the track over which the Equipment is moved) shall control the Equipment; Shipper and all Shipper Parties must strictly comply with its instructions. Amtrak



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and such railroads are not obligated to comply with any request from Shipper or any Shipper Party that is not explicitly promised by this Agreement.

ARTICLE II. PRICE AND PAYMENTS

201. **Price.** Shipper shall pay to Amtrak the total amount for the transportation of the following Equipment.

Transportation Pricing	

The shipping and pricing for any additional Equipment will be determined and if agreement is reached by the parties, prior to the particular move will be captured as an amendment to this Agreement. The price set forth above shall be valid through the end of the Contract Term. Amtrak shall submit invoices monthly. All undisputed invoices shall be paid Net 90 days.

ARTICLE III. COMPLIANCE WITH LAWS

301. **Compliance with Laws.** Shipper will ensure that it and any Passengers comply with all applicable laws, rules and regulations, and Shipper will indemnify, defend and hold harmless Amtrak from and against any loss, damage, expense or other harm or liability incurred or suffered by Amtrak due to any failure by Shipper or a Passenger to comply therewith. Amtrak shall not be liable for any loss, damage, or expense incurred by Shipper or any Passenger with respect to complying with any applicable laws, rules or regulations.

ARTICLE IV. RIGHTS AND LIABILITIES

401. **Amtrak Liability.** Amtrak will not be responsible for any damage to or destruction of the Equipment while Amtrak is providing Transportation. Amtrak shall not be liable either to Shipper Parties or to Shipper for incidental and/or consequential damages, inconvenience, expense or any other loss, damage, injury or delay resulting from any such cancellation, change, or other operating deficiency; nor shall Amtrak be liable for any failure to perform any obligation under this Agreement if such failure has in any manner resulted from the laws, regulations, acts, demands, orders or interpositions of any government or any subdivision or agent thereof or from acts of God, labor disputes or strikes, fire, flood, weather, war, acts of rebellion, insurrection or terrorism or any other cause beyond Amtrak's control.
402. **Indemnification.** Shipper shall indemnify, defend and hold harmless Amtrak, its officers, directors, employees and agents, from and against any and all lawsuits (at



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law or in equity), other liabilities (including contractual liability), and expenses (including attorneys’ fees) for damages for personal injury, including death, to any person, including employees of Shipper or its agents, and for damage (including loss of use) to or loss of any property, including the Equipment, arising out of the Equipment Transportation or related operations, regardless of any negligence by Amtrak its employees or agents. This provision shall survive termination of this Agreement. This indemnification shall not apply to claims asserted by Amtrak arising out of the Supply Contract.

403. Insurance.

Shipper shall procure and maintain, at its own cost and expense, during the entire period of performance under the Agreement, the types and amounts of insurance specified and in accordance with the Insurance provisions detailed in Articles 59 and 60 of the Equipment and Supplies Contract entered into by and between Shipper and Amtrak dated as of _____.

ARTICLE V. GENERAL

501. Term. The term of this Agreement shall commence on the Execution Date set forth below, and, unless earlier terminated pursuant to the terms of this Agreement, shall expire upon delivery of Equipment.

502. Suspension of Services. Amtrak reserves the right at any time during performance of the Transportation, to suspend operations thereon, or upon any part thereof, either for a specified amount of time or indefinitely, by giving Shipper five days written notice.

503. Termination. Either Shipper or Amtrak may, with or without good cause, terminate all or part of this Agreement, upon sixty (60) days’ notice to the other party.

504. Payments and Notices All payments and any notice permitted or required to be given hereunder must be in writing and either delivered by hand, sent by certified mail (return receipt requested), or sent by overnight courier with confirmed delivery to:

If to Amtrak:

Gina Pitcherella, Senior Manager, Procurement
National Railroad Passenger Corporation
30th Market Street
Philadelphia, PA 19104
Telephone: 215-713-8598
Email:
gina.pitcherella@amtrak.com

If to Shipper:



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Name:

Firm:

Address:

Telephone:

Email:

Notice is deemed effective on the date delivered to the recipient, regardless of any other date indicated thereon.

505. **Governing Law, Jurisdiction and Venue.** The Contract shall be governed by and construed in accordance with the laws of the District of Columbia, excluding that portion of District of Columbia law relating to the application of laws of another jurisdiction. Each party agrees that all legal proceedings in connection with any dispute arising under or relating to the Agreement shall be brought in the United States District Court for the District of Columbia. Shipper hereby accepts the jurisdiction of the United States District Court for the District of Columbia and agrees to accept service of process as if it were personally served within the District of Columbia.
506. **Survival of Rights and Obligations.** All rights and obligations, including without limitation, those pertaining to: Compliance with Laws, and Indemnification, which by their nature continue beyond expiration or termination of the Contract shall survive until each such right and/or obligation expires or terminates with its respective term.
507. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any and all prior representations, understandings or agreements between the parties, whether oral or written, concerning the subject matter hereof. This Agreement or any part of it may not be changed, amended or modified, except by written agreement of the parties as signed by the authorized representatives of both parties.
508. **Contractual Status.** The parties to this Agreement are independent contractors and neither party is, nor may act as, a partner, agent or employee of the other.
509. **Headings and Captions.** The headings and captions used in this Agreement are for convenience only and do not affect the meaning of any provision of this Agreement.
510. **Execution Date.** This Agreement is dated as of the __ day of Month and Year.



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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date written above.

[Insert name of Contractor] _____

By: _____

Title: _____

NATIONAL RAILROAD PASSENGER CORPORATION

By: _____

Title: _____

SAMPLE