

**REGULATION**

**OPEN COMPETITION**

**"RAIL BALTICA INFRASTRUCTURE MANAGEMENT STUDY"**

**(IDENTIFICATION NO RBR 2017/26)**



**Co-financed by the European Union**  
Connecting Europe Facility

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## REGULATION

### 1. GENERAL INFORMATION

- 1.1. The identification number of this open competition is No RBR 2017/26.
- 1.2. The applicable CPV code is: 79000000-4
- 1.3. The contracting entity is joint stock company RB Rail AS, legal address: K. Valdemara iela 8 - 7, Riga LV-1010, Latvia (hereinafter – **Contracting authority**).
- 1.4. The open competition is co-financed by the Contracting Authority and Connecting Europe Facility (CEF).
- 1.5. The estimated value of the contract is EUR 400,000 (four hundred thousand *euros*) (excluding VAT) or less.
- 1.6. This open competition is organised in accordance with the Public Procurement Law of Latvia in effect on the date of publishing the contract notice.
- 1.7. This open competition is carried out using E-Tenders system which is subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EKEIS/Supplier>).
- 1.8. The open competition regulation and all its annexes are freely available in Contracting authority's profile in the E-Tenders system at webpage <https://www.eis.gov.lv/EKEIS/Supplier> and the Internet webpage of the Contracting authority <http://railbaltica.org/tenders/>.
- 1.9. Amendments to the open competition regulation and answers to suppliers' questions shall be published on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier> and the Contracting authority's Internet webpage <http://railbaltica.org/tenders/>. It is the supplier's responsibility to constantly follow the information published on the webpage and to take it into consideration in its proposal.
- 1.10. Contact persons of the Contracting authority for this open competition:
  - (a) In administrative aspects of the open competition: Lead Procurement specialist, Mārtiņš Blaus, telephone: +371 28118533, e-mail address: [martins.blaus@railbaltica.org](mailto:martins.blaus@railbaltica.org);
  - (b) In aspects concerning subject-matter of Procurement: Business Development Manager, Kaspars Briškens, e-mail address: [kaspars.briskens@railbaltica.org](mailto:kaspars.briskens@railbaltica.org).
- 1.11. The procurement commission and the supplier exchange information in writing in English or Latvian (accompanied by a translation in English), by sending documents electronically via e-mail or using E-Tenders system.
- 1.12. The supplier can request additional information regarding the Regulation. Additional information can be requested in writing, by sending it to the procurement commission electronically via e-mail or using E-Tenders system. Additional information must be requested in a timely fashion, so that the procurement commission can give it a reply no later than 6 (six) days prior to the deadline for proposal submission. The procurement commission shall provide additional information within 5 (five) business days from the day of receipt of the request.
- 1.13. The supplier covers all expenses, which are related to the preparation of the Proposal and its submission to the Contracting authority. The submitted proposals are not returned to the Tenderer, unless specifically envisaged in the Regulations.

### 2. THE RIGHTS OF THE PROCUREMENT COMMISSION

- 2.1. The procurement commission has the right to demand at any stage of the open competition that the Tenderer submits all or part of the documents which certify Tenderer's compliance to the requirements for the selection of tenderers. The procurement commission does not demand documents or information which is already at its disposal or is available in public data bases.

- 2.2. If the Tenderer submits document derivatives (e.g. copies), then in case of doubt about the authenticity of the submitted document derivation the procurement commission can demand that the Tenderer shows the original documents.
- 2.3. In the course of proposal assessment the procurement commission has the right to demand that the included information is clarified.

### 3. THE OBLIGATIONS OF THE PROCUREMENT COMMISSION

- 3.1. The procurement commission ensures the documentation of the process of the open competition procedure.
- 3.2. The procurement commission ensures free and direct electronic access to the open competition procedure documents in Contracting authority's profile at the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier> and at the Internet webpage of the Joint-Stock Company RB Rail AS <http://railbaltica.org/tenders/>.
- 3.3. If an interested Supplier has in a timely fashion in writing by post or electronically, or delivering in person, requested additional information about the requirements included in open competition procedure documents regarding the preparation and submission of the Proposal or regarding the selection of Tenderers, the procurement commission provides a response electronically within 5 (five) business days, but not later than 6 (six) days before the deadline for submitting proposals. Simultaneously with sending this information to the supplier who had asked the question, the Contracting authority publishes this information in Contracting authority's profile on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier> and on its Internet webpage <http://railbaltica.org/tenders/>, where open competition procedure documents are available, indicating the question asked.
- 3.4. If the Contracting authority has amended the open competition procedure documents, it publishes this information in Contracting authority's profile on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier> and on the Contracting authority's Internet webpage <http://railbaltica.org/tenders/>, where open competition procedure documents are available, no later than 1 (one) day after the notification regarding the amendments has been submitted to Procurement Monitoring Bureau for publication.
- 3.5. The exchange and storage of information is carried out in such a way that all data included in the Proposals is protected and the Contracting authority can check the content of the Proposals only after the expiration of the deadline for their submission. In time between the day of the submission of Proposals till the moment of opening thereof the Contracting authority does not disclose information regarding the existence of other Proposals. In the time period of Proposal assessment till the moment of the announcement of the results the Contracting authority does not disclose information regarding the assessment process.
- 3.6. The procurement commission assesses the Tenderers and their submitted Proposals based on the Public Procurement Law, open competition procedure documents, as well as other regulatory enactments.
- 3.7. If the procurement commission determines that the information about the Tenderer, its subcontractors and persons upon whose capabilities the Tenderer is relying that is included in the submitted documents is unclear or incomplete, it demands that the Tenderer or a competent institution clarifies or expands the information included in the Proposal. The deadline for submission of the necessary information is determined in proportion to the time which is required in order to prepare and submit such information. If the procurement commission has demanded to clarify or expand upon the submitted documents, but the Tenderer has not done this in accordance with the requirements stipulated by the procurement commission, the procurement commission is under no obligation to repeatedly demand that the information included in these documents be clarified or expanded upon.
- 3.8. The procurement commission prepares a report on the open competition procedure and publishes it in Contracting authority's profile on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier> and on the Contracting authority's webpage

<http://railbaltica.org/tenders/> within 5 (five) business days from day when the decision about the results of the open competition is taken.

#### **4. THE RIGHTS OF THE TENDERER**

- 4.1. To submit tenderer's Electronic Procurement System registration documents (if the tenderer is not registered in Electronic Procurement System) in State Regional Development Agency (please see information here <http://www.railbaltica.org/procurement/e-procurement-system/>).
- 4.2. The Tenderer can request and within 3 (three) business days after submitting the request receive a copy of the Proposal opening sheet, which is an Annex to the Proposal opening meeting minutes.
- 4.3. If the Contracting authority gets the necessary information about the Tenderer directly from a competent institution, through data bases or other sources, the Tenderer in question has the right to submit a statement or a different document regarding the corresponding fact, if the information obtained by the Contracting authority does not conform to the factual situation.
- 4.4. If a Tenderer believes that its rights have been violated or such violation is possible due to possible violation of the regulatory enactments of the European Union or other regulatory enactments, the Tenderer has the right to submit a complaint to the Procurement Monitoring Bureau according to the procedure stipulated in the Public Procurement Law regarding the Tenderer selection requirements, technical specifications or other requirements relating to this open competition, or relating to the activities by the Contracting authority or the procurement commission during the open competition procedure.

#### **5. SUBJECT-MATTER OF THE OPEN COMPETITION**

- 5.1. The subject-matter of the open competition is a study on infrastructure management of Rail Baltica as described in Annex 2.
- 5.2. The study will have to cover Rail Baltica Global Project. The delivery of the study will take place in Latvia.

#### **6. TENDERER**

- 6.1. The proposal can be submitted by:
  - 6.1.1. A supplier, who is a legal or natural person (hereinafter – Tenderer) and who complies with the selection criteria for tenderers;
  - 6.1.2. A group of suppliers (hereinafter also – Tenderer, partnership) which complies with the selection criteria for tenderers:
    - (a) A group of suppliers who have formed a partnership for this particular open competition. In this case all the members of the partnership shall be listed in Annex 1 "Application". If it will be decided to award contracting rights to such partnership, then prior to concluding the Contract the partnership shall at its discretion either enter into a partnership agreement (within the meaning of Latvian Civil Law Sections 2241-2280) and shall submit one copy of this agreement to the Contracting authority or establish a general or limited partnership (within the meaning of Latvian Commercial Law, Chapter IX and X) and notify the Contracting authority in writing.
    - (b) An established and registered partnership (a general partnership or a limited partnership, within the meaning of Latvian Commercial Law, Chapter IX and X) (hereinafter also – Tenderer) which complies with the selection criteria for tenderers.

## 7. SELECTION CRITERIA FOR TENDERERS

### 7.1. Exclusion grounds

The contracting authority shall exclude the tenderer from further participation in the open competition in any of the following circumstances:

No	Requirement	Documents to be submitted
1.	<p>Within previous 3 (three) years before submission of the Proposal the Tenderer or a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, has been found guilty of or has been subjected to coercive measures for committing any of the following criminal offences by such a public prosecutor's order regarding punishment or a court judgement that has entered into force and may not be challenged and appealed:</p> <p>a) establishment, management of, involvement in a criminal organisation or in an organised group included in the criminal organisation or other criminal formation, or participation in criminal offences committed by such an organisation,</p> <p>b) bribe-taking, bribery, bribe misappropriation, intermediation in bribery, unauthorised participation in property transactions, taking of prohibited benefit, commercial bribing, unlawful claiming of benefits, accepting and providing of benefits, trading influences,</p> <p>c) fraud, misappropriation or money-laundering,</p> <p>d) terrorism, terrorism funding, calling to terrorism, terrorism threats or recruiting and training a person in performance of acts of terrorism,</p> <p>e) human trafficking,</p> <p>f) evasion from payment of taxes and similar payments.</p>	<ul style="list-style-type: none"> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases.</li> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing outside of Latvia the Tenderer should submit an appropriate statement from the competent authority of the country of registration or residence.</li> </ul>
2.	<p>It has been detected that on the last day of Proposal submission term or on the day when a decision has been made on possible granting of rights to conclude the procurement contract, the Tenderer has tax debts in Latvia or a country where it has been incorporated or is permanently residing, including debts of mandatory state social insurance contributions</p>	<ul style="list-style-type: none"> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing in Latvia, the Contracting</li> </ul>

No	Requirement	Documents to be submitted
	<p>exceeding 150 euro in total in any of the countries.</p>	<p>authority shall verify the information itself in publicly available databases.</p> <ul style="list-style-type: none"> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing outside of Latvia the Tenderer should submit an appropriate statement from the competent authority of the country of registration or residence.</li> </ul>
3.	<p>Tenderer's insolvency proceedings have been announced, the tenderer's business activities have been suspended, the tenderer is under liquidation.</p>	<ul style="list-style-type: none"> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases.</li> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing outside of Latvia the Tenderer should submit an appropriate statement from the competent authority of the country of registration or residence.</li> </ul>
4.	<p>A person who drafted the procurement procedure documents (contracting authority's official or employee), procurement commission member or expert is related to the tenderer, or is interested in selection of some tenderer, and the contracting authority cannot prevent this situation by measures that cause less restrictions on tenderers. A person who drafted the procurement procedure documents (contracting authority's official or employee), procurement commission member or expert is presumed to be related to the tenderer in any of the following cases:</p> <ul style="list-style-type: none"> <li>- If he or she is a current or and ex-employee, official, shareholder, procura holder or member of a tenderer or a subcontractor</li> </ul>	<p>No obligation to submit documents, unless specifically requested by the procurement commission.</p>

No	Requirement	Documents to be submitted
	<p>which are legal persons and if such relationship with the legal person terminated within the last 24 months.</p> <ul style="list-style-type: none"> <li>- If he or she is the father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-brother, half-sister or spouse (hereinafter – relative) of a tenderer's or subcontractor's, which is a legal person, shareholder who owns at least 10% of the shares in a joint-stock company, shareholder in a limited liability company, procure holder or an official.</li> <li>- If he or she is a relative of a tenderer or a subcontractor which is a natural person.</li> </ul> <p>If the tenderer is a partnership, consisting of natural or legal persons, a relation to the tenderer is presumed also if a person who drafted the procurement procedure documents (contracting authority's official or employee), procurement commission member or expert is related to a member of a partnership in any of the above mentioned ways.</p>	
5.	<p>The tenderer has an advantage that limits competition in the procurement procedure if it or its related legal person consulted the contracting authority or otherwise was involved in preparing the open competition, and the advantage cannot be prevented by less restrictive measures, and the tenderer cannot prove that its or its related legal person's participation in preparing the procurement procedure does not restrict competition.</p>	<p>No obligation to submit documents, unless specifically requested by the procurement commission.</p>
6.	<p>Within previous 12 (twelve) months before submission of the Proposal, by such a decision of a competent authority or a court judgment which has entered into force and may not be challenged and appealed, the tenderer has been found guilty of violating competition laws manifested as a horizontal cartel agreement, except for the case when the relevant authority, upon detecting violation of competition laws, has released the tenderer from a fine or has decreased the fine for cooperation within a leniency program.</p>	<ul style="list-style-type: none"> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases.</li> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person</li> </ul>



No	Requirement	Documents to be submitted
		<p>who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing outside of Latvia the Tenderer should submit an appropriate statement from the competent authority of the country of registration or residence.</p>
7.	<p>Within previous 3 (three) years before submission of the Proposal, by such a decision of a competent authority or a court judgment which has entered into force and may not be challenged and appealed, the tenderer has been found guilty of a violation manifested as employment of one or more persons which do not possess the required employment permit or if it is illegal for such persons to reside in a Member State of the European Union.</p>	<ul style="list-style-type: none"> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases.</li> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing outside of Latvia the Tenderer should submit an appropriate statement from the competent authority of the country of registration or residence.</li> </ul>
8.	<p>Within previous 12 (twelve) months before submission of the Proposal, by such a decision of a competent authority or a court judgment which has entered into force and may not be challenged and appealed, the tenderer has been found guilty of a violation manifested as employment of a person without a written employment contract, by failing within the term specified in regulatory enactments to submit an informative employee declaration regarding this person, which must be submitted about persons, who start working;</p>	<ul style="list-style-type: none"> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases.</li> <li>- For a Tenderer and a person who is the tenderer's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, which are registered or residing outside of Latvia the Tenderer should submit an appropriate statement from the competent authority of the country of registration or residence.</li> </ul>

No	Requirement	Documents to be submitted
9.	The tenderer has provided false information to prove its compliance with provisions of this Section 7.1, or qualification criteria, or has not provided the required information at all.	No obligation to submit documents, unless specifically requested by the procurement commission.

## 7.2. Legal standing and suitability to pursue the professional activity

No	Requirement	Documents to be submitted
1.	The Tenderer or all members of the partnership (if the Tenderer is a partnership) must be registered in the Registry of Enterprises or Registry of Inhabitants, or an equivalent register in their country of residence, if the legislation of the respective country requires registration of natural or legal persons.	<ul style="list-style-type: none"> <li>- For a Tenderer which is a legal person (or a member of a partnership, a person on whose abilities a Tenderer relies, a subcontractor whose share of work is equal to or exceeds 10% of the contract value) registered in Latvia the Contracting authority shall verify the information itself in publicly available databases.</li> <li>- For a Tenderer which is a natural person (or a member of a partnership, a person on whose abilities a Tenderer relies, a subcontractor whose share of work is equal to or exceeds 10% of the contract value) – a copy of an identification card or passport.</li> <li>- For a Tenderer (or a member of a partnership, a person on whose abilities a Tenderer relies, a subcontractor whose share of work is equal to or exceeds 10% of the contract value) which is a legal person registered abroad (with its permanent place of residence abroad) – a copy of a valid registration certificate or a similar document issued by a foreign authority in charge of the registration of legal persons in the country of their residence wherefrom at least the fact of registration, shareholders, officials and procura holders (if any) can be determined.</li> <li>- If a proposals is submitted by a partnership, the Proposal shall include an agreement (or letter of intention to enter into agreement) signed by all members on the participation in the procurement, which lists responsibilities of each and every partnership members and a joint commitment to fulfil the</li> </ul>

No	Requirement	Documents to be submitted
		<p>procurement contract, and which authorises one key member to sign the proposal and other documents, to receive and issue orders on behalf of the partnership members, and with whom all payments will be made.</p> <ul style="list-style-type: none"> <li>- If the Proposal or any other document, including any agreement, is not signed by the legal representative of the Tenderer, members of the partnership, person on whose capabilities the Tenderer relies or sub-contractors, then a document certifying the rights of the persons who have signed the Proposal or any other documents, to represent the Tenderer, a member of the partnership, a person on whose capabilities the Tenderer is relying, or a sub-contractor (powers of attorney, authorization agreements etc.) must be included.</li> </ul>
2.	The representative of the Tenderer, or a member of a partnership, or a person on whose abilities a Tenderer relies, who has signed documents contained in the proposal, has the right of signature, i.e., it is an official having the right of signature or a person authorized by the Tenderer.	<ul style="list-style-type: none"> <li>- A document confirming the right of signature (representation) of the representative of the Tenderer, or a member of a partnership, or a person on whose abilities a Tenderer relies, who signs the proposal. For a Tenderer which is a legal person (or a member of a partnership, a person on whose abilities a Tenderer relies, registered in Latvia the Contracting authority shall verify the information itself in publicly available databases.</li> <li>- If the Tenderer, or a member of a partnership, or a person on whose abilities a Tenderer relies, submits a power of attorney (original or a copy certified by the Tenderer) there shall be additionally submitted documents confirming that the issuer of the power of attorney has the right of signature (representation) of the Tenderer.</li> </ul>

### 7.3. Economic and financial standing

No	Requirement	Documents to be submitted
1.	The Tenderer's or all members' of the partnership together (if the Tenderer is a partnership), average annual financial	<ul style="list-style-type: none"> <li>- Audited yearly reports for fiscal years 2014, 2015, 2016 showing the turnover of the Tenderer.</li> </ul>

No	Requirement	Documents to be submitted
	<p>turnover within last 3 (three) years (2014, 2015, 2016) is not less than 500 000, 00 EUR (five hundred thousand <i>euros</i>) per year.</p> <p>In the event the yearly average annual financial turnover of a limited liability member of a limited partnership (within the meaning of Latvian Commercial Law, Chapter X) exceeds its investment in the limited partnership, the average annual financial turnover shall be recognised in the amount of the investment in the limited partnership.</p> <p>In the event the Tenderer or a member of a partnership (if the Tenderer is a partnership) has operated in the market for less than 3 (three) years, the requirement shall be met during the Tenderer's actual operation period.</p>	<ul style="list-style-type: none"> <li>- For a limited partnership (within the meaning of Latvian Commercial Law, Chapter X) an additional document evidencing the amount of the investment by the limited liability partner (the partnership agreement or a document with a similarly binding legal effect).</li> </ul>
2.	<p>The Tenderer or each member of the partnership (if the Tenderer is a partnership) shall have stable financial and economic performance, namely, in the previous audited fiscal year Tenderer's or each member's of the partnership (if the Tenderer is a partnership) liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1 and the Tenderer and each member of the partnership (if the Tenderer is a partnership) shall have positive equity.</p>	<ul style="list-style-type: none"> <li>- Audited annual report for previous fiscal year or 2015 (if there is no audited annual report for 2016 yet) showing the balance and calculation that proves liquidity ratio.</li> </ul>

#### 7.4. Technical and professional ability

No	Requirement	Documents to be submitted
1.	<p>The Tenderer within the previous 3 (three) years (2014, 2015, 2016 including 2017 until the date of submission of the Proposal) before the date of the submission of the Proposal, has completed at least 2 (two) contracts for performing studies of a materially similar subject-matter with the value of not less than 280,000, 00 EUR (two hundred eighty thousand <i>euros</i>) each. The subject-matter will be considered to be materially the similar if the studies collectively and comprehensively address all key elements related to railway infrastructure management, including institutional, operational and commercial aspects.</p>	<ul style="list-style-type: none"> <li>- Filled in and signed Annex 5</li> <li>- The procurement commission shall be entitled to request the Tenderer to submit written references in order to verify the correctness of information provided by the Tenderer set out in the form.</li> </ul>

#### 7.5. Team of key experts

No	Requirement	Documents to be submitted
1.	The Tenderer should propose a team consisting of the following key experts. Experts cannot serve several roles, however the role of the project manager and the role of an expert can be combined.	
1.1.	Every key expert is expected to have a very good (at least B2 Level) verbal and presentation and excellent (at least C1 Level) written English language skills– (based on Common European Framework of Reference for Languages <sup>1</sup> ) in communication, presentation, negotiation and report writing, particularly in the specific areas of their expertise.	<ul style="list-style-type: none"> <li>- self-declared information about each key experts' language skills in Annex 6.</li> </ul>
2.	<p><b>Project manager</b> who complies with the following requirements:</p> <ul style="list-style-type: none"> <li>- Practical experience in leading and supervising at least 2 (two) studies related to the delivery and management of railway infrastructure – with key technical parameters equivalent to Rail Baltica (compliant with TSI traffic codes P2-F1, P2 or P1) and operating within the EU legislative framework – with an investment or asset book value of at least 200 million euros each over the past ten years (2007-2017);</li> <li>- Master's degree (or equivalent) in transport and transport systems, railway engineering, logistics and supply chain management, infrastructure development, business and economics, law and public administration or equivalent education;</li> <li>- International and multi-disciplinary project team management experience in the last 4 (four) years (2013; 2014; 2015; 2016; including 2017 until the date of submission of the Proposal).</li> </ul>	<ul style="list-style-type: none"> <li>- Filled in and signed Annex 6.</li> <li>- A copy of a diploma proving relevant level of education.</li> </ul>
3.	<p><b>Lead expert in the field of railway infrastructure management</b> who complies with the following requirements:</p> <ul style="list-style-type: none"> <li>- At least 5 (five) years of experience in a senior position in an organization involved in railway</li> </ul>	<ul style="list-style-type: none"> <li>- Filled in and signed Annex 6.</li> <li>- A copy of a diploma proving relevant level of education.</li> </ul>

<sup>1</sup> see <http://europass.cedefop.europa.eu/resources/european-language-levels-cefr>

No	Requirement	Documents to be submitted
	<p>infrastructure management with a book value of fixed assets under management of at least 500 million euros and new railway infrastructure investment value of at least 200 million euros over the past 15 (fifteen) years (2002-2017);</p> <ul style="list-style-type: none"> <li>- Master's degree (or equivalent) in transport and transport systems, railway engineering, logistics and supply chain management, infrastructure development or equivalent education; (e.g. Master of Business Administration (MBA) with a specialization in logistics, supply chain or transport infrastructure management);</li> <li>- Project experience of at least one project related to railway infrastructure management – with key technical parameters equivalent to Rail Baltica (compliant with TSI traffic codes P2-F1, P2 or P1) and operating within the EU legislative framework – with a task similar to the subject matter with project CAPEX value of at least 200 million euro within the last ten years (2007-2017).</li> </ul>	
4.	<p><b>Railway industry and business development expert</b> who complies with the following requirements:</p> <ul style="list-style-type: none"> <li>- At least 5 (five) years of experience in a senior position related to business development in an organization involved in railway infrastructure management or multimodal logistics and supply chain development;</li> <li>- Project experience of at least one project related to railway infrastructure commercialization and business development from an infrastructure manager's perspective with tasks similar to the subject matter with project investment or asset book value of at least 200 million euro within the last ten years (2007-2017).</li> </ul>	<ul style="list-style-type: none"> <li>- Filled in and signed Annex 6.</li> </ul>
5.	<p><b>Railway operations expert</b> who complies with the following requirements:</p> <ul style="list-style-type: none"> <li>- At least 5 (five) years of experience in a position related to railway</li> </ul>	<ul style="list-style-type: none"> <li>- Filled in and signed Annex 6.</li> </ul>

No	Requirement	Documents to be submitted
	<p>operations, maintenance or traffic management in an organization involved in railway infrastructure management or operations;</p> <ul style="list-style-type: none"> <li>- Project experience of at least one project related to railway infrastructure operational planning from an infrastructure manager's perspective with tasks similar to the subject matter with project investment or asset book value of at least 200 million euro within the last ten years (2007-2017).</li> </ul>	
6.	<p><b>Legal and institutional expert</b> who complies with the following requirements:</p> <ul style="list-style-type: none"> <li>- Project experience of at least one project related to the legal and institutional aspects of railway infrastructure management with tasks similar to the subject matter with project investment or asset book value of at least 200 million euro within the last 5 (five) years (2012-2017).</li> </ul>	<ul style="list-style-type: none"> <li>- Filled in and signed Annex 6.</li> </ul>
7.	<p><b>Infrastructure finance and economics expert</b> who complies with the following requirements:</p> <ul style="list-style-type: none"> <li>- Project experience of at least one project related to railway infrastructure management life-cycle cost modelling with tasks similar to the subject matter with project investment or asset book value of at least 200 million euro within the last ten years (2007-2017);</li> </ul>	<ul style="list-style-type: none"> <li>- Filled in and signed Annex 6.</li> </ul>

- 7.6. Notices and other documents, which are issued by Latvian competent institutions, are accepted and recognized by the procurement commission, if they are issued no earlier than 1 (one) month prior to the date of submission of the Proposals. Notices and other documents, which are issued by foreign competent institutions, are accepted and recognized by the procurement commission, if they are issued no earlier than 6 (six) month prior to the date of opening of Proposals.
- 7.7. If the documents, with which a Tenderer registered or permanently residing abroad can certify its compliance with the requirements of Section 7.1, are not issued or these documents are insufficient, such documents can be replaced with an oath or, if the regulatory enactments of the country in question do not allow for an oath, - with a certification by the Tenderer or by another person mentioned in Section 7.1(1) before a competent executive governmental or judicial institution, a sworn notary or a competent organization of a corresponding industry in their country of registration (permanent residence).
- 7.8. If the Tenderer complies with any of the exclusion grounds mention in Section 7.1 (except tax debts), the Tenderer indicates this fact in Annex No 1.

- 7.9. The Tenderer, in order to certify that it complies with the selection criteria for Tenderers, may submit the European single procurement document as initial proof. This document must be submitted in paper format, and for each person upon whose capabilities the Tenderer relies, and for each of their indicated subcontractors, the share of whose work is equal to or exceeds 10 % (ten per cent) of the value of the Contract, but if the Tenderer is a partnership – for each member thereof. In order to fill in the European single procedure document the Tenderer uses the "ESPD.xml" file at the Internet webpage <https://ec.europa.eu/tools/espd/filter?lang=en>.

## **8. RELIANCE ON THE CAPABILITIES OF OTHER PERSONS**

- 8.1. For the fulfilment of the specific contract, in order to comply with the selection requirements for the Tenderers relating to the economic and financial standing and technical and professional ability (including regarding the team of key experts), the Tenderer may rely upon the capabilities of other persons, regardless of the legal nature of their mutual relationship. In this case:
- 8.1.1. The Tenderer indicates in the Proposal all persons upon whose capabilities it relies by filling in the table which is attached as Annex 3 and proves to the Contracting authority that the Tenderer shall have available all the necessary resources for the fulfilment of the contract, by submitting a signed confirmation or agreement on cooperation and/or passing of resources to the Tenderer between such persons and the Tenderer. The confirmations and agreements on cooperation and passing of resources can be replaced by the Tenderer with any other type of documents with which the Tenderer is able to prove that the necessary resources will be available to the Tenderer and will be used during the term of fulfilment of the contract.
- 8.1.2. Documents on cooperation and passing of resources have to be sufficient to prove to the Contracting authority that the Tenderer will have the ability to fulfil the contract, as well as that during the validity of the contract the Tenderer will in fact use the resources of such person upon whose capabilities the Tenderer relies.
- 8.1.3. The Contracting authority may require joint and several liability for the execution of the Contract between the tenderer and a person on whose capabilities the Tenderer is relying.
- 8.2. The Contracting authority shall evaluate the person, on whose capabilities the Tenderer to whom the rights to conclude the Contract should be assigned is relying. In case such person will comply with any of the exclusion grounds which are mentioned in Section 7.1(1) to 7.1(8), the Contracting authority shall request the Tenderer to change such person. If the Tenderer shall not submit documents about another person which complies with the selection criteria within 10 (ten) business days from the date when the request was issued or sent to the Tender, the Contracting authority shall exclude such Tenderer from further participation in the open competition.

## **9. SUBCONTRACTING**

- 9.1. The Tenderer shall indicate in the Proposal all subcontractors of the Tenderer by filling in the table which is attached as Annex 4.
- 9.2. The Contracting authority shall evaluate the subcontractor, whose share of work is equal to or exceeds 10% of the Contract price, of the Tenderer to whom the rights to conclude the Contract should be assigned. In case such subcontractor will comply with any of the exclusion grounds which are mentioned in Section 7.1(2) to 7.1(8), the Contracting authority shall request the Tenderer to change such subcontractor. If the Tenderer shall not submit documents about another subcontractor which complies with the selection criteria within 10 (ten) business days from the date when the request was issued or sent to the Tender, the Contracting authority shall exclude such Tenderer from further participation in the open competition.



10. **PROPOSAL (BID) SECURITY**

- 10.1. The Tenderer shall submit a proposal (bid) security in the amount of 5000,00 EUR (five thousand *euros*) (hereinafter – Security) which should be valid 3 (three) month from the day of opening of the Proposal.
- 10.2. The Security may be:
  - 10.2.1. A bank guarantee;
  - 10.2.2. An insurance policy.
- 10.3. The bank guarantee must comply with the following requirements:
  - 10.3.1. The guarantor must pledge to pay the Contracting authority the sum of the Security in cases stipulated in Section 10.7.
  - 10.3.2. The guarantee must be in force for the term stipulated in Section 10.6;
  - 10.3.3. The guarantee must be irrevocable;
  - 10.3.4. The Contracting authority shall not be obliged to demand the Security from the Tenderer prior to submitting the request to the guarantor;
  - 10.3.5. The Uniform Rules for Demand Guaranties, ICC Publication No.758, issued by the International Chamber of Commerce (ICC), are applicable to the guarantee, but in matters which are not regulated by the aforementioned International Chamber of Commerce (ICC) Rules, the regulatory enactments of the Republic of Latvia are applicable to the guarantee. Claims and disputes in relation to this guarantee shall be examined in the court of the Republic of Latvia, in accordance with the laws of the Republic of Latvia.
- 10.4. The insurance policy must comply with the following requirements:
  - 10.4.1. The insurer must pledge to pay the Company the sum of the Security in cases stipulated in Section 10.7.
  - 10.4.2. The insurance policy must be in force for the term stipulated in Section 10.6 and be subject to realization from the opening of the Proposal, that is, the insurance premium must be paid by the moment of submitting the Proposal, which is proved by a payment certificate enclosed to the Proposal;
  - 10.4.3. The insurance policy must pledge to pay the Contracting authority the sum of the Security in cases stipulated in Section 10.7.
  - 10.4.4. The insurance policy must be irrevocable;
  - 10.4.5. The Contracting authority shall not be obliged to demand the Security from the Tenderer prior to submitting the request to the insurer;
  - 10.4.6. Claims and disputes in relation to this insurance policy shall be examined in the court of the Republic of Latvia in accordance with the laws of the Republic of Latvia.
- 10.5. If the Tenderer is a partnership, then the Security must be formalized in such a way that it applies to all the members of the Tenderer (the name of the Tenderer in the Security must be the same as the name of the Tenderer in the proposal).
- 10.6. The Security shall be in force for the shortest of the terms listed below:
  - 10.6.1. the term of validity of the Security stipulated in Section 10.1;
  - 10.6.2. until the Contract is concluded.
- 10.7. Upon request of the Contracting authority the Security giver shall pay the sum of the Security to the Contracting authority, if:
  - 10.7.1. the Tenderer revokes its Proposal while the Security is in force,
  - 10.7.2. The selected Tenderer fails to submit necessary documents and requested contract performance security,

- 10.7.3. the Tenderer, whose Proposal is selected in accordance with the contract award criteria, does not sign the Contract in the term stipulated by the Contracting authority.
- 10.8. The Security document shall be submitted together with the Proposal (in E-Tenders system) as electronical document signed by secure electronic signature or as approved copy of the Security document.
- 10.8.1. If together with the Proposal a copy of the Security document will be submitted, the Tenderer has to submit the original of the Security document before the deadline of the proposal submission (11 December 2017, 15:00 o'clock) by post or personally to the address: RB Rail AS, Kr. Valdemara iela 8 - 7, Riga, LV-1010. Original of the Proposal (Bid) security document has to be submitted in a glued up envelope, on which it shall be indicated: "Proposal (Bid) security for the open competition "Rail Baltica Infrastructure Management Study"" No RBR 2017/26".The name, address and telephone number of the Tenderer shall be specified on the envelope.
- 10.8.2. If the Tenderer fails to submit legally binding original of the Security document according to these regulations, the procurement commission excludes the Tenderer from participation in the open competition.
- 10.8.3. After the Security (if submitted in paper form) shall lose its force it shall be returned to the Tenderer subject to a request by the Tenderer.

## 11. FINANCIAL PROPOSAL

- 11.1. The Financial proposal shall be submitted as part of Annex 1.
- 11.2. The proposed contract price shall be determined in *euro* without value added tax (hereinafter – VAT).
- 11.3. The proposed contract price is to be calculated and indicated with an accuracy of 2 (two) decimal places after comma. If more than 2 (two) decimal places after comma are indicated, then only the first two decimal places will be taken into account.
- 11.4. The proposed contract price shall include all taxes, fees and payments, and all costs related to the fulfilment of the specific work that can be reasonably estimated, except VAT, including but not limited to:
- 11.4.1. visits to the Contracting authority (cost of business trips and time of consultants),
- 11.4.2. field research,
- 11.4.3. purchase of external materials and researches,
- 11.4.4. purchase of external experts if applicable.
- 11.5. the prices are fixed for all the term of the fulfilment of the Contract and are not recalculated, except in cases stipulated in the Contract (if any).

## 12. TECHNICAL PROPOSAL

- 12.1. Tenderers should submit a methodology document in accordance with Annex 2 "Technical Proposal", containing the description of at least the following aspects:
- 12.1.1. Description of the organisational aspects, which includes but is not limited to:
- (a) Methods for the conduct of the study;
  - (b) Principles for the organization of meetings with the Contracting authority;
  - (c) Principles for the daily communication between the Tenderer and the Contracting authority (e.g. by telephone; e-mail, etc.);
  - (d) Ensuring the adequate availability of and access to the Tenderer's personnel and relevant resources.

- 12.1.2. Description of the contents of services, which includes but is not limited to:
- (a) Elaboration of the scope of services given in the Technical specification (including with the respect to the defined work packages) showing the understanding of the assignment;
  - (b) The management of provision of services;
  - (c) The sequence and the co-relation of the tasks and deliverables;
  - (d) Stages of the provision of the services;
  - (e) Identification of risks and proposal of measures for the aversion of the identified risks during each stage of provision of the services;
  - (f) timetable of the delivery of Services and deliverables, which is compatible with the one stipulated in the Technical specification.
- 12.1.3. Description of the Tenderer's personnel and resources and work organization, which includes but is not limited to:
- (a) Description of the Tenderer's core team (Personnel stipulated in Section 7.5), their work management structure, hierarchy, decision making process and each core team members responsibilities;
  - (b) If relevant for the particular Tenderer: procedure for engagement of additional experts required for performance of the services and their role in the proposed management structure;
  - (c) Identification and description of the resources that will be used by the Tenderer to fulfil the services and can be called upon, if needed.

### 13. CONTENTS AND FORM OF THE PROPOSAL

- 13.1. Proposal must be submitted electronically in E-Tenders subsystem of the Electronic Procurement System, in accordance with the following options for the tenderer:
- 13.1.1. by using the available tools of E-Tender subsystem, filling the attached forms of the E-Tender subsystem for this procurement procedure;
- 13.1.2. by preparing and filling the necessary electronic documents outside the E-Tenders subsystem and attaching them to relevant requirements (in this situation, the tenderer takes responsibility for the correctness and compliance of the forms to requirements of documentation and form samples);
- 13.1.3. by encrypting electronically prepared proposal outside subsystem of E-Tenders with data protection tools, provided by third parties, and protection with electronic key and password (in this situation, the tenderer takes responsibility for the correctness and compliance of the forms to requirements of documentation and form samples as well as ensuring capability to open and read the document);
- 13.2. During preparation of the proposal, the tenderer respects:
- 13.2.1. Application form and financial proposal must be filled separately, each in a separate electronic document, in line with forms attached to procurement process of E-Tenders subsystem in a Microsoft Office 2010 (or later) format and attached to the designated part of the procurement procedure;
- 13.2.2. Upon submission, the tenderer signs the proposal with secure electronic signature and time-stamp or with electronic signature provided by Electronic Procurement System. The tenderer can use secure electronic signature and time-stamp and sign Application form, Technical proposal and Financial proposal separately. Proposal (its parts, if signed separately) are signed by authorized person, including authorization document (e.g. power of attorney).

- 13.3. The documents shall be included in the proposal in the following order (hereinafter – **Proposal**):
  - 13.3.1. Separately from other documents: the original document of the Security (according to Section 10.8).
  - 13.3.2. Title page with title “Proposal for the open competition “Rail Baltica Infrastructure Management Study” No RBR 2017/26”, name, address and contact information of the Tenderer;
  - 13.3.3. The table of contents with page numeration.
  - 13.3.4. Application (financial proposal) in accordance with Annex No. 1.
  - 13.3.5. Information and documents confirming compliance of the Tenderer with the selection criteria for the Tenderers, or the corresponding European single procurement documents.
  - 13.3.6. Information and documents relating to entities on whose capabilities the Tenderer is relying, or the corresponding European single procurement documents.
  - 13.3.7. Information and documents relating to subcontractors and/or or the corresponding European single procurement documents.
  - 13.3.8. Technical proposal prepared in accordance with Section 12.
- 13.4. The Tenderer is not permitted to submit variants of the Proposal. If variants of the Proposal shall be submitted, the Proposal will not be reviewed.
- 13.5. The Tenderer may submit a Proposal only for the whole subject matter of the open competition in total.
- 13.6. The Proposal may contain original documents or their derivatives (e.g. copies). In the proposal or in reply to a request of the procurement commission the Tenderer shall submit only such original documents which have legal force. In order for the document to gain legal force it has to be issued and formatted in accordance with the Law on Legal Force of Documents, but public documents issued abroad shall be formatted and legalized in accordance with the requirements of the Document Legalization Law. When submitting the Proposal, the Tenderer has the right to certify the correctness of all submitted documents’ derivatives and translations with one certification.
- 13.7. The Proposal must be signed by a person who is legally representing the Tenderer or is authorized to represent the Tenderer in this open competition procedure.
- 13.8. The Tenderer shall prepare Proposal in electronic form using the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier> .
- 13.9. The Proposal shall be valid for 90 (ninety) days from the day of opening (deadline for submission) of the Proposal.
14. **ENCRYPTION OF THE PROPOSAL INFORMATION**
  - 14.1. E-Tender system which is subsystem of the Electronic Procurement System ensures first level encryption of the information provided in the proposal documents.
  - 14.2. If the Tenderer applied additional encryption to the information in the proposal (according to Section 14.1), Tender has to provide Procurement Commission with electronic key with the password to unlock the information not later than in 15 (fifteen) minutes after deadline of the proposal submission.

**15. SUBMISSION OF A PROPOSAL**

- 15.1. Proposal (documents referred to in the Section 13) shall be submitted electronically using the tools offered by the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier> by 11 December 2017 till 15:00 o'clock.
- 15.2. The Tenderer may recall or amend its submitted Proposal before the expiry of the deadline for the submission of Proposals by using the tools offered by E-Tenders system.
- 15.3. Only Proposals submitted to the E-Tenders system will be accepted and evaluated for participation in the procurement procedure. Any Proposal submitted outside the E-Tenders system will be declared as submitted in a non-compliant manner and will not participate in the procurement procedure.

**16. OPENING OF PROPOSALS**

- 16.1. The Proposals will be opened in the E-Tenders system 11 December, 2017 15:00 o'clock during the open meeting. It is possible to follow the opening of submitted proposals online in the E-Tenders system.
- 16.2. The Proposals are opened by using the tools offered by E-Tenders system, the proposed price and other information that characterizes the Proposal shall be published in E-Tenders system, as well as notice of the presence of documents proving the Security.
- 16.3. The information regarding the Tenderer, the time of Proposal submission, the proposed price and other information that characterizes the Proposal is generated at the opening of the proposals by E-Tenders system and written down in the Proposal opening sheet, which shall be published in E-Tenders system and Contracting authorities web page.

**17. VERIFICATION OF PROPOSAL**

- 17.1. Procurement commission verifies whether the submitted Proposals comply with the requirements stipulated in in The Regulation (Section 13) and whether all required information and documents is submitted and selects for further evaluation the compliant Proposals.
- 17.2. The Procurement commission verifies whether the submitted Technical proposals comply with the requirements stipulated in Section 12 and selects for further evaluation the compliant Technical proposals.

**18. VERIFICATION OF FINANCIAL PROPOSALS**

- 18.1. The procurement commission verifies whether Tenderers have completed Annex 1 "Application" in accordance with the requirements.
- 18.2. The procurement commission verifies whether there are any arithmetical errors, whether an abnormally low Proposal has been received, as well as assesses and compares the contract prices proposed.
- 18.3. The procurement commission informs the Tenderer whose mathematical errors have been corrected about the correction of mathematical errors and the corrected financial proposal.
- 18.4. When evaluating the financial proposal, the procurement commission takes corrections into account.
- 18.5. The procurement commission has the right to demand that the Tenderer explains the calculation upon which the financial proposal is based and other related aspects in order to ascertain the objectivity of the financial proposal and whether an abnormally low Proposal has been submitted.
- 18.6. The procurement commission further evaluates the compliant Proposals which have not been declared as abnormally low proposals.

## 19. CONTRACT AWARD CRITERIA

- 19.1. The Proposal selection criterion is the most economically advantageous proposal, according to the evaluation methodology described in this Section below.
- 19.2. The economically most advantageous proposal shall be the Proposal which will receive the highest sum of scores for the following criteria:

Evaluation criteria:		Points:
19.2.1.	<b>Quality of the Technical proposal</b> , which will be evaluated in accordance with Section 19.5.	45
19.2.2.	<b>Financial proposal</b> , which will be evaluated in accordance with Section 19.6.	35
19.2.3.	<b>Quality of the proposed team of experts</b> , which will be evaluated in accordance with Section 19.7.	20
	<b>Total</b>	<b>100</b>

- 19.3. The procurement commission shall sum up the points obtained by each Tenderer and the Contract shall be awarded to the Tenderer whose Proposal obtains the highest score.
- 19.4. In case several Tenderers will obtain equal number of points, the procurement commission shall award the right to conclude the contract to the Tenderer which will obtain higher score for its financial proposal. If also this score will be equal then the procurement commission shall award the right to conclude the contract to the Tenderer which submitted its Proposal first.

### 19.5. Evaluation of the quality of the Technical proposal

- 19.5.1. Quality of the Technical proposal will be evaluated by comparing the Technical proposals according to the following criteria:

No	Criteria	Points
	<b>(a) Multi-criteria analysis methodology</b>	
a.1	<b>Outstanding<sup>2</sup> level of detail</b>  The contents of the Technical proposal conforms with the Technical Specification, work packages (WP) are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and an <b>outstanding</b> description of the specific task of Section 2.1. of WP 2 and WP 4, including the Tenderer has proposed numerous additional parameters/criteria for multi-criteria analysis, set out substantiated and understandable weighing for each parameter/criteria and has proposed a substantiated and understandable formula for scoring the identified infrastructure management options.	7

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<sup>2</sup> **Outstanding** here and elsewhere means a detailed and well-structured description comprising features which exceed the required quality and performance set out in the Technical specification, with many, and/or additional to the ones mentioned in the Technical specification, alternatives analysed, options are substantiated including by taking into account the particular tasks of this particular project.

No	Criteria	Points
a.2	<b>High level of detail</b>  The contents of the Technical proposal conforms with the Technical specification, WPs are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and a <b>good</b> <sup>3</sup> description of the specific task of Section 2.1. of WP 2 and WP 4, including the Tenderer has proposed a few additional parameters/criteria for multi-criteria analysis, set out substantiated and understandable weighing for each parameter/criteria and has proposed a substantiated and understandable formula for scoring the identified infrastructure management options.	5
a.3	<b>Satisfactory<sup>4</sup> level of details</b>  The contents of the Technical proposal conforms with the Technical specification, WPs are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and a <b>satisfactory</b> description of the specific task of Section 2.1. of WP 2 and WP 4, including the Tenderer has set out substantiated and understandable weighing for each parameter/criteria and has proposed a substantiated and understandable formula for scoring the identified infrastructure management options.	2
a.4	<b>Insufficient<sup>5</sup> level of details</b>  The Technical proposal consists of unanswered or significantly inadequate and incomplete solutions to the required specific tasks. A failure to grasp the intended requirements of tasks outlined in the Technical specification. The Technical proposal conforms with the Technical Specification and practice of the industry only partly, the description of provision of services does not provide an idea about the way and means of provision of these services and project in general and an insufficient description of the specific task of Section 2.1. of WP 2 and WP 4.	0
<b>(b) Life-cycle cost model</b>		
b.1	<b>Outstanding level of detail</b>  The contents of the Technical proposal conforms with the Technical Specification, work packages (WP) are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and an <b>outstanding</b> description of the specific task of Section 2.2. of WP 2 and WP 5, including the Tenderer has proposed to analyse all key cost types by taking into account the unique features of the Rail Baltica project, and has proposed a substantiated and understandable formulas or methodology for comparing one infrastructure management option against the other.	7

<sup>3</sup> **Good** here and elsewhere means a detailed and structured description, which meets the required quality and performance set out in the Technical specification, with some alternatives analysed and choices substantiated including by taking into account the particular tasks of this particular project.

<sup>4</sup> **Satisfactory** here and elsewhere means a description, which generally meets the required quality and performance set out in the Technical specification but with some minor issues negatively deviating from the Technical specification and limited additional analysis or substantiation including by taking into account the particular tasks of this particular project.

<sup>5</sup> **Insufficient** here and elsewhere means a description, which partly meets the required quality and performance set out in the Technical specification in some areas but with some major issues negatively deviating from the Technical specification and very limited or no additional analysis or substantiation including by taking into account the particular tasks of this particular project.

No	Criteria	Points
b.2	<b>High level of detail</b>  The contents of the Technical proposal conforms with the Technical specification, WPs are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and a <b>good</b> description of the specific task of Section 2.2. of WP 2 and WP 5, including the Tenderer has proposed a substantiated and understandable formulas or methodology for comparing one infrastructure management option against the other, and has proposed to analyse most key cost types by taking into account the unique features of the Rail Baltica project, however, the Contracting authority is able to identify additional costs which the Tenderer has not taken into account.	5
b.3	<b>Satisfactory level of details</b>  The contents of the Technical proposal conforms with the Technical specification, WPs are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and a <b>satisfactory</b> description of the specific task of Section 2.2. of WP 2 and WP 5.	2
b.4	<b>Insufficient level of details</b>  The Technical proposal consists of unanswered or significantly inadequate and incomplete solutions to the required specific tasks. A failure to grasp the intended requirements of tasks outlined in the Technical specification. The Technical proposal conforms with the Technical Specification and practice of the industry only partly, the description of provision of services does not provide an idea about the way and means of provision of these services and project in general and an insufficient description of the specific task of Section 2.2. of WP 2 and WP 5.	0
<b>(c) In-depth analysis methodology</b>		
c.1	<b>Outstanding level of detail</b>  The contents of the Technical proposal conforms with the Technical Specification, work packages (WP) are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and an <b>outstanding</b> description of the specific task of WP 6, including the Tenderer has proposed and strongly substantiated several additional factors for comparative analysis of the two final infrastructure management options, set out substantiated and understandable weighing for each factor and has proposed a substantiated and understandable formula for scoring or other methodology for comparative analysis of the two final infrastructure management options.	7
c.2	<b>High level of detail</b>  The contents of the Technical proposal conforms with the Technical specification, WPs are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and a <b>good</b> description of the specific task of WP 6, including the Tenderer has proposed some additional factors for comparative analysis of the two final infrastructure management options, set out substantiated and understandable weighing for each factor and has proposed a substantiated and understandable formula for scoring or other	5



No	Criteria	Points
	methodology for comparative analysis of the two final infrastructure management options.	
c.3	<p><b>Satisfactory level of details</b></p> <p>The contents of the Technical proposal conforms with the Technical specification, WPs are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and a <b>satisfactory</b> description of the specific task of WP 6, including the Tenderer has set out substantiated and understandable weighing for each factor and has proposed a substantiated and understandable formula for scoring or other methodology for comparative analysis of the two final infrastructure management options.</p>	2
c.4	<p><b>Insufficient level of details</b></p> <p>The Technical proposal consists of unanswered or significantly inadequate and incomplete solutions to the required specific tasks. A failure to grasp the intended requirements of tasks outlined in the Technical specification. The Technical proposal conforms with the Technical Specification and practice of the industry only partly, the description of provision of services does not provide an idea about the way and means of provision of these services and project in general and an insufficient description of the specific task of WP 6.</p>	0
<i>(d) Contractual concept</i>		
d.1	<p><b>Outstanding level of detail</b></p> <p>The contents of the Technical proposal conforms with the Technical Specification, work packages (WP) are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and an <b>outstanding</b> description of the specific task of Section 7.3 of WP7.</p>	7
d.2	<p><b>High level of detail</b></p> <p>The contents of the Technical proposal conforms with the Technical specification, WPs are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and a <b>good</b> description of the specific task of Section 7.3 of WP7.</p>	5
d.3	<p><b>Satisfactory level of details</b></p> <p>The contents of the Technical proposal conforms with the Technical specification, WPs are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and a <b>satisfactory</b> description of the specific task of Section 7.3 of WP7.</p>	2
d.4	<p><b>Insufficient level of details</b></p> <p>The Technical proposal consists of unanswered or significantly inadequate and incomplete solutions to the required specific tasks. A failure to grasp the intended requirements of tasks outlined in the Technical specification. The Technical proposal conforms with the Technical Specification and practice of the industry only partly, the description of provision of services does not provide an idea about the way and means of provision of these services and</p>	0

No	Criteria	Points
	project in general and an insufficient description of the specific task of Section 7.3 of WP7.	
<i>(e) Development of the optimum model</i>		
e.1	<b>Outstanding level of detail</b>  The contents of the Technical proposal conforms with the Technical Specification, work packages (WP) are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and an <b>outstanding</b> description of the specific task of Section 7.2 of WP7, including, the Tenderer has proposed to describe additional models and functions than the ones mentioned in the Technical specification, described their components and interaction with other elements.	17
e.2	<b>High level of detail</b>  The contents of the Technical proposal conforms with the Technical specification, WPs are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and a <b>good</b> description of the specific task of Section 7.2 of WP7, including, the Tenderer has proposed to describe additional models and functions than the ones mentioned in the Technical specification.	10
e.3	<b>Satisfactory level of details</b>  The contents of the Technical proposal conforms with the Technical specification, WPs are outlined in the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and a <b>satisfactory</b> description of the specific task of Section 7.2 of WP7.	5
e.4	<b>Insufficient level of details</b>  The Technical proposal consists of unanswered or significantly inadequate and incomplete solutions to the required specific tasks. A failure to grasp the intended requirements of tasks outlined in the Technical specification. The Technical proposal conforms with the Technical Specification and practice of the industry only partly, the description of provision of services does not provide an idea about the way and means of provision of these services and project in general and an insufficient description of the specific task of Section 7.2 of WP7.	0

19.5.2. The procurement commission shall obtain the final score for each Technical proposal in this criterion by summing up all points obtained by the particular Technical proposal in this criterion and dividing the sum with the number of members of the procurement commission which participated in the evaluation of the Technical proposals. The result shall be used as the points for the particular Technical proposal for the purposes of Section 19.3.

## 19.6. Evaluation of the Financial proposal

19.6.1. The procurement commission shall award the maximum available points for the Financial proposal to the Financial proposal with the lowest proposed price.

19.6.2. Other Financial proposals shall receive score in accordance with the following formula:

$$\text{points} = \frac{\text{lowest proposed price from the compliant proposals}}{\text{Tenderer's proposed price}} \times 35$$

**19.7. Evaluation of the quality of the proposed team of experts**

19.7.1. Only the following experience, which exceeds the minimum experience which is requested in Section 7.5, shall be awarded with points according to the following sub-criteria and methodology:

No	Criteria	Points
<b>(a) Experience in large projects</b>		
a.1	Project manager, Lead expert in the field of railway infrastructure management and at least 1 (one) other proposed expert each have obtained experience in at least 1 (one) railway infrastructure project with key technical parameters equivalent to Rail Baltica (compliant with TSI traffic codes P2-F1, P2 or P1) and operating within the EU legislative framework with an investment or asset book value of at least 500 million euros each over the past ten years (2007-2017).	5
a.2	Project manager and Lead expert in the field of railway infrastructure management each have obtained experience in at least 1 (one) railway infrastructure project with key technical parameters equivalent to Rail Baltica (compliant with TSI traffic codes P2-F1, P2 or P1) and operating within the EU legislative framework with an investment or asset book value of at least 500 million euros each over the past ten years (2007-2017).	3
a.3	Either Project manager or Lead expert in the field of railway infrastructure management has obtained experience in at least 1 (one) railway infrastructure project with key technical parameters equivalent to Rail Baltica (compliant with TSI traffic codes P2-F1, P2 or P1) and operating within the EU legislative framework with an investment or asset book value of at least 500 million euros each over the past ten years (2007-2017).	1
<b>(b) European Union (EU) - related experience</b>		
b.1	Railway industry and business development expert, Railway operations expert and Legal and institutional expert each have obtained experience in at least 1 (one) railway infrastructure project with key technical parameters equivalent to Rail Baltica (compliant with TSI traffic codes P2-F1, P2 or P1) and operating within the EU legislative framework over the past ten years (2007-2017).	5
b.2	Railway operations expert has obtained experience in at least 1 (one) railway infrastructure project with key technical parameters equivalent to Rail Baltica (compliant with TSI traffic codes P2-F1, P2 or P1) and operating within the EU legislative framework, and Legal and institutional expert has obtained experience in at least 1 (one) railway infrastructure project operating within the EU legislative framework, each over the past ten years (2007-2017).	3
b.3	Railway operations expert has obtained experience in at least 1 (one) railway infrastructure project with key technical parameters equivalent to Rail Baltica (compliant with TSI traffic codes P2-F1, P2 or P1) and Legal and institutional expert has obtained experience in	1

No	Criteria	Points
	at least 1 (one) railway infrastructure project operating within the EU legislative framework, each over the past ten years (2007-2017).	
<b>(c) Cross-border experience</b>		
c.1	Lead expert in the field of railway infrastructure management has obtained experience in at least 2 (two), and at least 1 (one) other proposed expert has obtained experience in at least 1 (one) railway infrastructure project where railway infrastructure crosses State border between at least 2 (two) countries with at least one country being an EU Member State, each over the past ten years (2007-2017)  or  at least 3 (three) proposed experts each have obtained experience in at least 1 (one) railway infrastructure project where railway infrastructure crosses State border between at least 2 (two) countries with at least one country being an EU Member State, each over the past 10 (ten) years (2007-2017).	10
c.2	Lead expert in the field of railway infrastructure management and at least 1 (one) other proposed expert each have obtained experience in at least 1 (one) railway infrastructure project where railway infrastructure crosses State border between at least 2 (two) countries with at least one country being an EU Member State, each over the past ten years (2007-2017).	5
c.3	At least 1 (one) proposed expert, except Lead expert in the field of railway infrastructure management, has obtained experience in at least 1 (one) railway infrastructure project where railway infrastructure crosses State border between at least 2 (two) countries with at least 1 (one) country being an EU Member State over the past ten years (2007-2017).	2

- 19.7.2. The procurement commission shall obtain the final score for each Technical proposal in this criterion by summing up all points obtained by the particular Technical proposal in this criterion and dividing the sum with the number of members of the procurement commission which participated in the evaluation of the Technical proposals. The result shall be used as the points for the particular Technical proposal for the purposes of Section 19.3.

## 20. TENDERER CHECK PRIOR TO MAKING THE DECISION REGARDING THE CONCLUSION OF THE CONTRACT

- 20.1. Prior to making the decision about assigning rights to conclude the Contract, the procurement commission performs a check regarding the existence of grounds for exclusion of tenderers for Tenderers, members of a partnership (if the Tenderer is a partnership), persons on whose capabilities the Tenderer is relying and subcontractors whose share of work is equal to or exceeds 10% of the Contract value.
- 20.2. If, in accordance with the information published on the day of the last data update in a public database, on the last day of Proposal submission or on the day when the decision regarding the possible assignment of rights to conclude a Contract is made, the Tenderer, member of a partnership (if the Tenderer is a partnership), a subcontractor whose share of work is equal to or exceeds 10% of the Contract price or a person on whose capabilities the Tenderer is relying have tax debts, including state mandatory insurance contributions debts, the total sum of which exceeds 150 euro, the procurement commission informs the Tenderer and sets a deadline – 10 days from the day of issuing or receiving information – for the submission of

a certificate evidencing absence of tax debt or decision to prolong the deadline or postpone payment of the tax, an agreement on payment of the tax or other objective evidence proving absence of a tax debt.

- 20.3. If the Tenderer fails to submit required evidence about itself before the deadline, the procurement commission excludes the Tenderer from participation in the open competition.
- 20.4. Change of persons upon whose capabilities the Tenderer is relying or subcontractors whose share of work is equal to or exceeds 10% of the Contract price is performed in accordance with Sections 8.2 and 9.2 respectively.
- 20.5. In the event the Tenderer or partnership member (if the Tenderer is a partnership) fails to comply with requirements stipulated in Section 7.1 and has indicated this in the Proposal, upon request by the procurement commission it submits an explanation about the implemented measures in order to restore reliability and prevent occurrences of the same or similar violations in future, as well as attaches evidence which proves the implemented measures, such as but not limited to evidence about compensating damages, on cooperation with investigating authorities, implemented technical, organisational or personnel measures, an assessment of a competent authority regarding the sufficiency of the implemented measures etc. The procurement commission assesses such information. If the procurement commission deems the measures taken to be sufficient for the restoration of reliability and the prevention of similar cases in the future, it makes the decision not to exclude the Tenderer from participation in the open competition. If the measures taken are insufficient, the procurement commission makes the decision to exclude the Tenderer from further participation in the open competition procedure. If the Tenderer, within the indicated time, does not submit the requested information, the procurement commission excludes the Tenderer from participation in the open competition.

## **21. DECISION MAKING, ANNOUNCEMENT OF RESULTS AND ENTERING INTO A CONTRACT**

- 21.1. The procurement commission selects the Tenderers in accordance with the set selection criteria for Tenderers, verifies the compliance of the Proposals with the requirements stipulated in the Regulation and chooses the Proposal in accordance with the contract award criteria as described in Section 19. The Tenderer whose Proposal shall receive the best score shall be selected.
- 21.2. Within 3 (three) business days from the date of decision about the open competition results the procurement commission informs all the Tenderers about the decision made by sending the information by post or electronically and keeping the evidence of the date and mode of sending the information. The procurement commission announces the name of the chosen Tenderer, indicating:
  - 21.2.1. to the refused Tenderer the reasons for refusing its Proposal;
  - 21.2.2. to the Tenderer who has submitted an eligible Proposal, the characterization of the chosen proposal and the relative advantages;
  - 21.2.3. the deadline by which the Tenderer may submit a complaint to the Procurement Monitoring Bureau regarding violations of the public procurement procedure.
- 21.3. If only 1 (one) Tenderer complies with all the Tenderer selection requirements, the procurement commission prepares and includes in the open competition procedure report a justification of the fact that the set requirements for tenderer selection are objective and commensurate. If the procurement commission cannot justify that the set requirements for tenderer selection are objective and commensurate, it makes the decision to terminate the public procurement procedure.
- 21.4. If the public procurement procedure is terminated, the procurement commission within 3 (three) business days simultaneously informs all Tenderers about all the reasons because of which the open competition procedure is terminated, and informs about the deadline within which a Tenderer may submit an application regarding the violations of the public procurement procedure to the Procurement Monitoring Bureau.

- 21.5. The procurement commission, when informing of the results, has the right not to disclose specific information, if it may infringe upon public interests or if the Tenderer's legal commercial interests or the conditions of competition would be violated.
- 21.6. As soon as possible, but not later than within 5 (five) business days from day when the decision about the results of the open competition is taken, the procurement commission prepares a report on the open competition procedure and publishes it on the E-procurement system's webpage <https://www.eis.gov.lv/EKEIS/Supplier> and on Contracting Authority's webpage <http://railbaltica.org/en/procurements>.
- 21.7. The selected Tenderer upon receiving the notification about the open competition results must:
  - 21.7.1. within 5 (five) business days submit cooperation or partnership agreement if required pursuant to requirements under Section 6.1.2;
  - 21.7.2. within 10 (ten) days from receiving the invitation, to sign the Contract.
- 21.8. The Contract is concluded on the basis of the Tenderer's Proposal and in accordance with Annex 7.
- 21.9. The procurement commission has the right to choose the next most economically advantageous Proposal, if the Tenderer in the time stipulated by the Regulation:
  - 21.9.1. refuses to conclude a partnership contract in the cases and deadlines defined by the Regulation, or in the cases and deadlines defined by the Regulation does not submit a copy of the partnership contract or does not inform of the founding of a partnership company;
  - 21.9.2. refuses to conclude the Contract or does not submit a signed Contract.
- 21.10. In such a case the procurement commission is entitled to terminate this open competition without selecting any Proposal, or to select the Proposal with the next best score. For either of these decisions a written decision must be made.
- 21.11. Prior to making the decision regarding the conclusion of the contract with the next Tenderer, the procurement commission assesses whether the next Tenderer is one market participant together with the initially selected Tenderer. If the next selected Tenderer is found to be one market participant together with the initially selected Tenderer, the procurement commission makes a decision to terminate the open competition without selecting any Proposal. If the next chosen Tenderer also refuses to conclude the contract or does not submit a signed public procurement contract within the deadline set by the procurement commission, the procurement commission makes the decision to terminate the open competition without selecting any Proposal.

## ANNEX NO 1: APPLICATION

[form of the Tenderer's company]

2017.\_\_\_\_.

No \_\_\_\_\_

### APPLICATION FOR PARTICIPATION IN THE OPEN COMPETITION "RAIL BALTICA INFRASTRUCTURE MANAGEMENT STUDY", NO RBR 2017/26

Tenderer [*name of the Tenderer or members of the partnership*], reg. No. [*registration No of the Tenderer or members of the partnership*], represented by [*name, last name and position of the representative of the Tenderer*], by submitting this application:

1. Confirms participation in the open competition "Rail Baltica Infrastructure Management Study" No RBR 2017/26.
2. Proposes to deliver services in accordance with the Technical specification and this Proposal for the following price (excluding VAT):

3. (If applicable): Informs that the following persons comply with the following exclusion grounds:

Name of the entity (person)	Exclusion ground and brief description of the violation
[•]	
[•]	
[•]	

4. Confirms that the Regulation is clear and understandable, that it does not have any objections and complaints and that in the case of granting the right to enter into a contract it shall fulfil all conditions of the Regulation as well as enter into a procurement contract in accordance with the draft contract enclosed with the Regulation.
5. Confirms the period of validity of its Proposal for 90 (ninety) days from the day of opening of the Proposal.
6. Guarantees that all information and documents provided are true.

**7. We meet the criteria of (*please mark*):**

☐ a small                      ☐ medium                      ☐ other

sized enterprise<sup>6</sup> as defined in the Article 2 of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise;<sup>7</sup>

\_\_\_\_\_  
Date: [*date of signing*]

Name: [*name of the representative of the Tenderer*]

Position: [*position of the representative of the Tenderer*]

<sup>6</sup> The information on the size of the Candidate is used solely for statistical purposes and is not in any way whatsoever used in the evaluation of the Tenderer or the Proposal.

<sup>7</sup> Available here - [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2003.124.01.0036.01.ENG&toc=OJ:L:2003:124:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2003.124.01.0036.01.ENG&toc=OJ:L:2003:124:TOC)

TERMS OF REFERENCE

Rail Baltica Infrastructure Management Study



**Co-financed by the European Union**  
Connecting Europe Facility

Riga, 2017



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## 1. INTRODUCTION

The Baltic countries Estonia, Latvia and Lithuania have historically been linked to the east-west railway transport axis using the 1520mm gauge railway system. Because of the existing historical and technical constraints, the existing rail system is incompatible with mainland European standards, thus there is a consensus that Estonia, Latvia and Lithuania need to be fully integrated into the wider European rail transport system. Currently there is no efficient 1435 mm railway connection along the Warsaw-Kaunas-Riga-Tallinn axis, i.e. there are missing links or significant bottlenecks. Thus, there are no direct passenger or freight services along the railway axis as the existing infrastructure does not allow for competitive services compared to alternative modes of transport. Thus, the clear majority of the North-South freight is being transported by road transport and the overall accessibility in the region is low.

The ambitions of the Rail Baltica Global project (Global Project) are:

- to become a powerful catalyst for sustainable economic growth in the Baltic States;
- to set a new standard of passenger and freight mobility;
- to ensure a new economic corridor will emerge;
- sustainable employment and educational opportunities;
- an environmentally sustainable infrastructure;
- new opportunities for multimodal freight logistics development;
- new intermodal transport solutions for passengers;
- safety and performance improvements;
- a new value platform for digitalization and innovation;
- completion of Baltic integration in the European Union transport ecosystem.

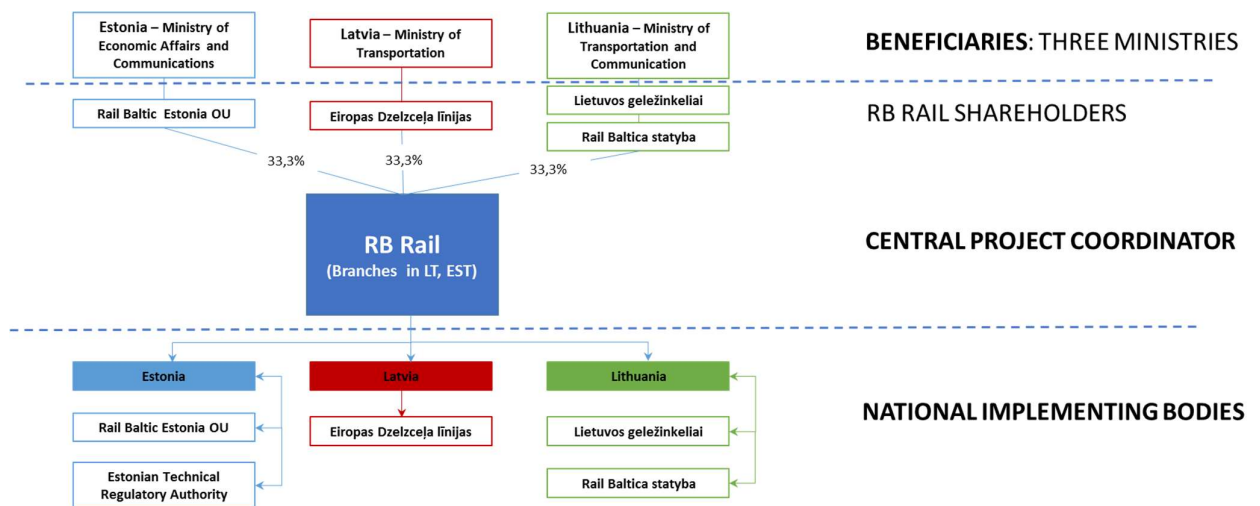
Rail Baltica is already designed to become a part of the EU TEN-T North Sea – Baltic Core Network Corridor, which links Europe's largest ports of Rotterdam, Hamburg and Antwerp – through the Netherlands, Belgium, Germany and Poland – with the three Baltic States, further connecting to Finland via the Gulf of Finland short sea shipping connections with a future fixed link possibility between Tallinn and Helsinki. Further northbound extension of this corridor shall pave the way for future connectivity also with the emerging Arctic corridor, especially in light of the lucrative prospects of the alternative Northern Circle maritime route development between Europe and Asia. Furthermore, the North Sea – Baltic Corridor crosses with the Baltic-Adriatic Corridor in Warsaw, paving the way for new supply chain development between the Baltic and Adriatic seas, connecting the Baltics with the hitherto inadequately accessible Southern European markets. In a similar fashion, Rail Baltica shall strengthen the synergies between North-South and West-East freight flows, creating new trans-shipment and logistics development opportunities along the Europe and Asia overland trade routes. The new Rail Baltica infrastructure would, therefore, not only put the Baltics firmly on the European rail logistics map, but also create massive opportunities for value creation along this infrastructure with such secondary economic benefits as commercial property development, revitalization of dilapidated urban areas, private spin-off investment, new business formation, technology transfer and innovation, tourism development and other catalytic

effects. Rail Baltica aims to promote these effects from the early stages of the Global Project, learning from the key global success stories and benchmarks in this regard.

The contracting authority RB Rail AS (RBR) was established by the Republics of Estonia, Latvia and Lithuania, via state-owned holding companies, to coordinate the development and construction of the fast-conventional standard gauge railway line on the North Sea – Baltic TEN-T Core Network Corridor (Rail Baltica II) linking three Baltic states with Poland and the rest of the EU. The main technical parameters shall correspond to traffic code P2-F1 as per INF TSI (Commission Regulation 1299/2014/EU) and shall have the following main technical parameters:

- double track, design speed on the main track 240 km/h, design speed on side tracks minimum 100 km/h;
- axle load 22.5 t;
- distance between track centres at least 4.20 m on the main tracks;
- distance between two sided passing loops approximately 50 km and crossovers approximately 25 km but staged according to a train traffic forecast;
- all pedestrian, road and 1520mm rail crossings only as above or below grade crossings (segregated grade crossings), fencing and noise barriers where needed;
- ERTMS Level 2 with possible update to the newest version;
- communications system GSM-R with a view to accommodate the new generation railway communications standard;
- electrification 2x25 kV AC;
- length of freight trains 740m, but for spatial planning and track geometry design a length of 1050m shall be used;
- length of passenger trains 200m, but for spatial planning and track geometry design a length of 400m shall be used;
- height of passenger platforms 550mm;
- maintenance road, where necessary, shall be on one side of the tracks with gravel 3.5m wide

The diagram below illustrates the shareholder and project governance structure of the Rail Baltica project.



RBR together with governments of Estonia, Latvia and Lithuania (represented by the ministries in charge of transport policy) have applied for the CEF co-financing in 2015, 2016 and 2017 (three applications in total). The first two applications were successful and INEA grants are available to support the Global Project expenses with up to 85% of co-financing in amount of 633 mln EUR. A further application is currently under evaluation.

Rail Baltica is a joint project of three EU Member States – Estonia, Latvia and Lithuania – and concerns the building of a fast conventional double-track 1435 mm gauge electrified and ERTMS equipped mixed use railway line on the route from Tallinn through Pärnu (EE), Riga (LV), Panevėžys (LT), Kaunas (LT) to the Lithuania/Poland state border (including a Kaunas – Vilnius spur) with a design speed of 240km/h. In the longer term, the railway line could potentially be extended to include a fixed link between Helsinki and Tallinn, as well as integrate the railway link to Warsaw and beyond.

The expected core outcome of the Rail Baltica Global Project is a European gauge (1435mm) double-track railway line of almost 900 km in length meant for both passenger and freight transport and the required additional infrastructure (to ensure full operability of the railway). It will be interoperable with the TEN-T Network in the rest of Europe and competitive in terms of quality with other modes of transport in the region. The indicative timeline and phasing of the project implementation can be found here: <http://www.railbaltica.org/about-rail-baltica/project-timeline/>.

## 2. OBJECTIVE OF PROCUREMENT

- 2.1. Efficient and timely determination and selection of a suitable infrastructure management model is critical for the long-term success of any major infrastructure development project. European and global best practice benchmarking illustrates that it is highly advisable to determine the long-term infrastructure manager as early as possible during the greenfield infrastructure project implementation. This not only promotes a life-cycle cost approach (over short-term CAPEX considerations), but also efficient engagement of the infrastructure manager and future users of the infrastructure in the planning and design processes, thereby

contributing to the delivery of an efficient infrastructure that's easily maintainable, financially sustainable and tailor-made to the needs of its future users. In the context of EU co-financed projects, this allows for a better assessment of the long-term value of the infrastructure and, thereby, of the long-term socio-economic return on the European and national investment. In the case of Rail Baltica it would also promote greater project transparency and strengthen the case for continued EU support at high co-financing rates. At the same time, one must be cognizant of the highly complex – national and European – stakeholder matrix underpinning the Rail Baltica project and the need to strike a sustainable balance between national interests and considerations, on the one hand, and the Rail Baltica global project perspective and its ambition to create an exemplary platform for an efficient functioning of the single European railway market, on the other.

The European Union defines 'infrastructure manager' as "*any body or firm responsible for the operation, maintenance and renewal of railway infrastructure on a network, as well as responsible for participating in its development as determined by the Member State within the framework of its general policy on development and financing of infrastructure*"<sup>8</sup>, strictly defining also the independence of essential functions<sup>9</sup> of the infrastructure manager:

*"Member States shall ensure that the infrastructure manager is responsible for operation, maintenance and renewal on a network and is entrusted with the development of the railway infrastructure of that network in accordance with national law. Member States shall ensure that none of the other legal entities within the vertically integrated undertaking has a decisive influence on the decisions taken by the infrastructure manager in relation to the essential functions. Member States shall ensure that the members of the supervisory board and of the management board of the infrastructure manager and the managers directly reporting to them act in a non-discriminatory manner and that their impartiality is not affected by any conflict of interest."*<sup>10</sup>

Over the past few years, the notion of railway infrastructure management has experienced a considerable legislative evolution as part of the wider European Union initiative to reform the railway market and lay the foundations for the effective functioning of the Single European Railway Area. Efforts and measures taken as part of the implementation of the 4<sup>th</sup> Railway Package have been aimed at achieving the strategic objectives of: a) improving the efficiency of infrastructure management by ensuring better coordination/alignment between infrastructure managers and rail operators, streamlining and ensuring coherence in the management of the different functions of the infrastructure manager and promoting the

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<sup>8</sup> Article 3, point (2): <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1489656599614&uri=CELEX:32016L2370>

<sup>9</sup> Article 3, point (2f) "essential functions" of infrastructure management means decision-making concerning train path allocation, including both the definition and the assessment of availability and the allocation of individual train paths, and decision-making concerning infrastructure charging, including determination and collection of charges, in accordance with the charging framework and the capacity allocation framework established by the Member States [...].

<sup>10</sup> Article 7, point (1): <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1489656599614&uri=CELEX:32016L2370>

cross-border and pan-European dimension of railway infrastructure, as well as b) promoting equal access and thereby a more efficient railway market functioning by tackling conflicts of interest, distortions of competition and access barriers to infrastructure<sup>11</sup>. As the European Commission<sup>12</sup> summarizes with regard to a 'fully-fledged and independent infrastructure manager':

*"Another challenge in improving the efficiency of infrastructure management is to warrant that operation, maintenance and development of infrastructure are managed in a consistent manner by a single entry. At the same time it is important to ensure that ensure that all operators would have non-discriminatory access. Therefore the 4th Railway Package has proposed to bring together all the function of infrastructure managers and as well as to foresee appropriate safeguards to ensure independence of infrastructure management from the interests of dominant railway operators."*

Realizing the importance of a timely, efficient and informed selection of the infrastructure management model for Rail Baltica, the project stakeholders have jointly agreed to carry out an independent infrastructure management study in 2017 with the ultimate aim of reaching an agreement between the stakeholders on the management of the built Rail Baltica infrastructure by the end of 2018, which is also a conditionality of the 2<sup>nd</sup> Grant Agreement for the allocation of Connecting Europe Facility funding to the project.

At the same time, the Agreement between the Government of the Republic of Latvia, the Government of the Republic of Estonia and the Government of the Republic of Lithuania on the Development of the Rail Baltica Railway Connection (Inter-Governmental Agreement), currently undergoing ratification at the three Baltic parliaments, stipulates that *"land and infrastructure shall be made available for use by nominated infrastructure manager(s) without compensation/remuneration"* (Article 7.2) and that *"infrastructure manager(s) will be granted access to related service facilities"* (Article 7.3). In addition, the Agreement reiterates that *"Parties commit to ensure that the most effective and feasible infrastructure management with a view but not limited to [levying of charges for the use of railway infrastructure and allocation of railway infrastructure capacity, and traffic management] [...] is achieved and infrastructure manager(s) determined in a joint and timely manner to build confidence and achieve continuous engagement of project of common interest institutional partners and contribute to long-term feasibility of the [...] Rail Baltica railway"* (Article 9.3).

Therefore, the primary aim of this study is to review and comprehensively analyse the different relevant models of infrastructure management and identify the optimum model for Rail Baltica from the project life-cycle, economic efficiency and market functioning perspectives, covering a broad range of institutional, technical/operation and commercial

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<sup>11</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013SC0013&from=EN>

<sup>12</sup> [https://ec.europa.eu/transport/modes/rail/market/infrastructure-managers-prime\\_en](https://ec.europa.eu/transport/modes/rail/market/infrastructure-managers-prime_en)

factors, while bearing in mind the unique nature of this project. The result of this study is a proposed detailed infrastructure management concept. The strategic purpose of this study is to provide a comprehensive independent analysis of feasible infrastructure management models for Rail Baltica, thereby aiding and promoting a diligent, well-informed and substantiated future political decision-making process with regard to Rail Baltica infrastructure management.

The study shall also provide substantive input to the following second – closely linked – study that shall subsequently provide: a) a proposed draft Inter-Governmental Agreement on Rail Baltica infrastructure management based on the selected optimum model from the infrastructure management study, which, after negotiations, would form the basis of the infrastructure management agreement between the stakeholders, and b) a legal study on the future Infrastructure Management Contract (IMC), including: i) a study of IMC options, and ii) a proposed draft Infrastructure Management Contract (IMC) based on the selected optimum model from the infrastructure management study, and c) analysis of the necessary changes in the national legislation or regulatory frameworks.

- 2.2. Through the applicable procurement procedure Contracting authority seeks a service provider for the implementation of the following tasks:

Prepare a comprehensive study of infrastructure management models applicable to Rail Baltica, identify the optimum model and propose a detailed infrastructure management concept and contractual model for Rail Baltica.

- 2.3. The results to be delivered from the Tenderer<sup>13</sup> (the Contractor) are following:

No.	Title of deliverable	Description of deliverable
1.	Inception Report	<ul style="list-style-type: none"> <li>a) International best practice benchmarking of cross-border rail infrastructure management, including short case studies, and an overview of the relevant research on the subject (<b>WP1</b>)</li> <li>b) Detailed execution plan</li> <li>c) Updated detailed methodology (<b>WP2</b>)</li> </ul>
2.	Interim Report	<ul style="list-style-type: none"> <li>a) Identification of a pool of all feasible options (<b>WP.3.1</b>)</li> <li>b) Identification and description of at least five relevant infrastructure management options (and sub-options) – including but not limited to – a) single cross-border infrastructure manager and b) multiple infrastructure managers (<b>WP3.2</b>)</li> <li>c) Multi-criteria analysis (<u>Stage 1</u>) of all identified options (<b>WP4.1</b>)</li> <li>d) Identification of at least three but not more than four highest-scoring options, including a) highest-scoring single cross-border infrastructure manager option (sub-option) and b) highest-scoring multiple infrastructure managers option (sub-option). (<b>WP4.2</b>)</li> </ul>

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<sup>13</sup> definitions “Tenderer” and “the Contractor” are considered as equal in terms of their meaning.

		<ul style="list-style-type: none"> <li>e) Life-cycle cost model analysis (<u>Stage 2</u>) of the options proposed in WP4.2 (<b>WP5.1</b>)</li> <li>f) Identification of two most cost-efficient options for final analysis (<b>WP5.2</b>)</li> <li>g) Updated detailed contract execution plan</li> <li>h) Final report draft outline</li> </ul>
3.	Interim Report (revised)	Revised content as per the Contracting Authority comments
4.	Draft Final Report	<ul style="list-style-type: none"> <li>a) In-depth analysis (<u>Stage 3</u>) of the two options proposed in WP5.2 (<b>WP6</b>)</li> <li>b) Identification and detailed description of the proposed optimum Rail Baltica infrastructure management model (<b>WP7.1 &amp; WP7.2</b>)</li> <li>c) Proposed contractual model for Member States concerned (national governments), including: <ul style="list-style-type: none"> <li>a. Contractual framework</li> <li>b. Identification of material substance elements of the Inter-Governmental Agreement on Rail Baltica infrastructure management (<b>WP7.3</b>)</li> </ul> </li> <li>d) Report minimum content: <ol style="list-style-type: none"> <li>1. Executive Summary</li> <li>2. Introduction</li> <li>3. Background information and international benchmarking (WP1)</li> <li>4. Methodology (WP2)</li> <li>5. Option identification and multi-criteria analysis (WP3&amp;4)</li> <li>6. Life-cycle cost model (WP5)</li> <li>7. Final in-depth comparative analysis (WP6)</li> <li>8. Detailed description of the optimum model and proposed contractual model (WP7)</li> <li>9. Risk analysis (WP8)</li> <li>10. Conclusions and recommendations (WP9)</li> </ol> </li> </ul>
5.	Final Report	<p>Report minimum content:</p> <ol style="list-style-type: none"> <li>1. Executive Summary</li> <li>2. Introduction</li> <li>3. Background information and international benchmarking</li> <li>4. Methodology</li> <li>5. Option identification and multi-criteria analysis</li> <li>6. Life-cycle cost model</li> <li>7. Final in-depth comparative analysis</li> <li>8. Detailed description of the optimum model and proposed contractual model</li> <li>9. Risk analysis</li> <li>10. Conclusions and recommendations</li> </ol>



		Final Report is drafted according to requirements of deliverables and by its content is completely in line with the Terms of Reference.
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- 2.4. The deadline for the provision of services is 18 weeks from the commencement date.
- 2.5. The deadlines of intermediate deliverables (with contents as per section 2.3 above) and their approval for the provision of services are as follows:

Deliverables/Reports	No. of copies	Submission schedule	Approval through Contracting Authority
Inception Report	2 hard copies, 1 soft copy	CD* + 4 weeks	2 weeks after reception
Interim Report	2 hard copies, 1 soft copy	CD* + 8 weeks	2 weeks after reception
Draft Final Report	2 hard copies, 1 soft copy	CD* + 13 weeks	3 weeks after reception
Final Report	3 hard copies, 1 soft copy	CD* + 18 weeks	2 weeks after reception

(\*) CD: commencement date of the contract

- 2.6. Reports and documents will be officially delivered and accepted, the Contracting authority or its authorized representative will approve the receipt of the document in writing by signing the acceptance-delivery protocol.
- 2.7. The Contractor shall provide in its work programme enough time for the review of submitted deliverables by representatives of the Contracting Authority, leaving at least 10 working days for the review and preparation of their statement.

### 3. SOURCE INFORMATION TO BE CONSIDERED

- 3.1. The Contractor shall consider the following non-exhaustive list of documents, studies, study projects and any other documents required for service provision:

3.1.1. "Rail Baltica Global Project Cost-Benefit Analysis"; EY 2017 (<http://railbaltica.org/cost-benefit-analysis/>);

3.1.2. Materials and presentations from the Rail Baltica Global Forum 2017 (for general information purposes):

*presentations*: <http://railbaltica.org/global-forum-day-1-presentations/>,  
<http://railbaltica.org/global-forum-day-2-presentations/>;

videos: <https://www.youtube.com/channel/UCIqi5eDjXrnuGHEMHk0AI2g/playlists>

- 3.1.3. "Report on: Elaboration of traffic management and operations control plan for Rail Baltica"; Railistics 2016;
- 3.1.4. Rail Baltica Joint Venture Shareholders' Agreement;
- 3.1.5. Rail Baltica Contracting Scheme Agreement (infographic: <http://railbaltica.org/wp-content/uploads/2017/05/Contracting-Scheme-Rail-Baltica-2016.jpg>);
- 3.1.6. Rail Baltica Contracting Scheme study; PWC, 2016;
- 3.1.7. Inter-Governmental Agreement on the Development of the Rail Baltica Railway Connection, 2017 ([http://railbaltica.org/wp-content/uploads/2017/05/Intergovernmental\\_Agreement\\_2017.pdf](http://railbaltica.org/wp-content/uploads/2017/05/Intergovernmental_Agreement_2017.pdf));
- 3.1.8. Rail Baltica Global Project Documentation Library (<http://railbaltica.org/about-rail-baltica/documentation/>);
- 3.1.9. Relevant studies, reports, position papers by the relevant European and international institutions (including the European Commission, European Parliament, European Rail Agency, Rail Freight Corridors, ITF/OECD etc);
- 3.1.10. Relevant studies, reports, position papers by key railway industry NGOs (including EIM, CER, UIC, ERFA, UNIFE);
- 3.1.11. Recent and relevant research papers, studies, presentations and articles by leading academic institutions/authors in peer-reviewed railway and logistics journals, academic textbooks and international events.
- 3.2. The Contractor shall consider the following non-exhaustive list of projects and activities related thereto for service provision:
  - 3.2.1. Rail Baltica Long-term Business Plan (tender documentation: <http://railbaltica.org/tenders/164-2/>; carried out in parallel with the infrastructure management study);
  - 3.2.2. Rail Baltica Operational Plan (tender to be announced; carried out in parallel with the infrastructure management study);
  - 3.2.3. Rail Baltica Commercialization Plan (overall plan being developed; shall consist of multiple sub-activities and studies);
  - 3.2.4. Rail Baltica Design Guidelines (being developed in parallel).
- 3.3. The Contracting Authority shall facilitate and provide the appropriate organizational frameworks towards the integration of content and cohesion between the infrastructure management study and other relevant Rail Baltica global project studies and activities, both those already completed and those being carried out in parallel (such as those listed in 3.2).

The Contractor is expected to join and actively participate in the relevant alignment meetings.

- 3.4. The Contractor shall ensure that the result of the study is compliant with respective EU legislation.

#### 4. DESCRIPTION OF SERVICES

The services are organized in accordance with the following work packages (WP):

##### WP1: Empirical and academic benchmarking

- **WP1.1:** International best practice benchmarking with regard to cross-border railway infrastructure management with relevant case studies (both positive and negative);
- **WP1.2:** A review of past studies and academic research with relevance to Rail Baltica infrastructure management;

##### WP2: Methodological approach

- A comprehensive study methodology conducive to a transparent and independent analysis and well-substantiated recommendations, including:
  - **WP2.1:** a proposed methodology of option analysis based on multi-criteria analysis (MCA) with varying criteria weights allocated according to relative importance or a similar comprehensive methodological framework; the use of SWOT analysis or similar tools is recommended as a supplement;
  - **WP2.2:** an institutional life-cycle cost model for comparison of different infrastructure management options in terms of associated costs;
- The updated detailed methodology, presented in the Inception Report, shall be reviewed and agreed with the Contracting Authority.

##### WP3: Identification of options

- **WP3.1:** Identification of a long-list of options from the institutional, functional, geographical, level of centralization perspectives;
- **WP3.2:** Identification of **at least five** relevant infrastructure management options (and sub-options) – including but not limited to – a) single cross-border infrastructure manager and b) multiple infrastructure managers;
- The selection of options to be put forward for analysis in the Interim Report shall be reviewed and agreed with the Contracting Authority.

##### WP4: Multi-criteria analysis (Stage 1 evaluation)

- **WP4.1:** A comparative multi-criteria analysis of the options identified in WP3.2 based on a comprehensive assessment matrix including but not limited to the following key parameters/criteria (not listed in any particular order of importance):

Institutional	Technical/operational	Commercial
International benchmarking and case studies	Operations and Traffic Management	Track Access Charges (TAC) determination and management
Administrative efficiency (economies of scale)	Operational efficiency and sustainability	Scheduling/invoicing
Legal framework	Infrastructure maintenance / upgrade / renewal	Financial model
Shareholding structures	ERTMS-compatible operational rules	Promotion and organization of cross-border services
Transition from infrastructure delivery to infrastructure management	TTC (train traffic control) efficiency	User/operator (incl. railway undertakings) engagement model
Asset management	Digital Infrastructure Management	Customer orientation
Procurement	Emergency Management System / rescue services / safety culture	Rail Baltica business development and commercialization (freight and passenger)
Funding allocation (national, EU, market sources)	Security (including Critical Infrastructure Protection)	Engagement in Rail Freight Corridor 8 (RFC8) and other relevant joint initiatives for freight promotion
Transparency and management of conflicts of interest	Driver licencing	Engagement in/with industry NGOs (including but not limited to EIM, CER, EFRA, UIC)
Efficient functioning of the single European railway area (promotion of competition; removal of barriers of entry; avoidance of protectionism)	Interfaces with the 1520mm railway system and existing legacy infrastructure managers	Sustainability and environmental protection
Management of freight and passenger terminals and related railway infrastructure (national vs joint; complementary vs competitive; land-lord vs operator)	Cross-border operations, including vis-à-vis Poland;	Deployment of innovations and digitalization
	Capacity allocation and management	Research & development (e.g. Shift2Rail etc)
	ERTMS management	Development of value added services
Interface and cooperation with European Union Agency for Railways, National Safety Authorities as well as National Regulatory bodies.	Interoperability, technical compatibility and cross acceptance	Promotion of intermodality/multimodality (e.g. 'Mobility as a service' for passenger services and supply chain management for freight)
Operational language	Access to and/or management of service facilities	Network synergies
Expandability of the model to relevant infrastructure in other countries (e.g. Finland (fixed link) and Poland (Rail Baltica section)	Health & accessibility (including PRM)	Management of other utilities/services in the Rail Baltica right-of-way corridor
	Quality of services	
	Promotion of reliability & punctuality	

- **WP4.2:** Identification of **at least three but not more than four** highest-scoring options, according to multi-criteria analysis, including a) highest-scoring single cross-border

infrastructure manager option (sub-option) and b) highest-scoring multiple infrastructure managers option (sub-option).

**WP5: Life-cycle cost analysis (Stage 2 evaluation)**

- **WP5.1:** an institutional whole-network life-cycle cost model for comparison of the infrastructure management options identified in WP4.2 in terms of associated costs;
- **WP5.2:** identification of **two** most cost-efficient options for final analysis.

**WP6: Final in-depth analysis (Stage 3 evaluation)**

- **WP6.1:** an in-depth comparative analysis of the two final options, providing a comprehensive assessment of the key factors underlying the choice and future implementation of either of these two (i.e. describe and compare both) models of infrastructure management for Rail Baltica, covering – among others but not limited to:

a) **institutional** factors:

- a proposed legal framework and shareholding structures (if applicable);
- transition from the infrastructure delivery to infrastructure management/operation phase;
- asset management (consider, propose and compare different relevant models);
- funding allocation mechanisms (national, EU, market sources, hybrid);
- efficient functioning of the single European railway area (promotion of competition and market participation; reduction of entry barriers of entry; avoidance of protectionism);
- management of freight and passenger terminal and related railway infrastructure (as per Directive 2016/2370) (including pros/cons of national *vs* joint; complementary *vs* competitive; land-lord *vs* operator and similar comparisons);

b) **technical & operational** factors:

- infrastructure maintenance, upgrade and renewal (consider, propose and compare different models (including the differences between in-house, outsourced and hybrid models));
- capacity allocation and management (consider, propose and compare different models);
- cross-border interoperability, technical compatibility and cross acceptance (consider, propose and compare different models);

c) **commercial** factors:

- determination and management of Track Access Charges (TAC) (consider, propose and compare different models);

- model of engagement with railway infrastructure users/operators (including railway undertakings) (consider, propose and compare different approaches);
  - Rail Baltica business development and commercialization (freight and passenger) (consider, propose and compare different approaches);
  - development and provision of additional value added services by the infrastructure manager (consider and propose different relevant options); commercial and legal possibilities of managing other utilities/services along the Rail Baltica right-of-way corridor (e.g. optical fibre, pipelines, future transportation technologies);
  - holistic development of the Rail Baltica network and operational synergies (consider different options and scenarios; among other, discuss the possible scenario of varying levels of utilization (and, therefore, profitability) for the different sections of Rail Baltica and contingency/balancing measures);
- **WP6.2:** in addition to the above – consider, propose and include in the final analysis any other critical factors to be taken into account when determining and taking political decisions on the Rail Baltica infrastructure management model;

#### **WP7: Identification and detailed description of the optimum model**

- **WP7.1:** based on the comparative in-depth analysis in WP6, identify and propose the optimum model of infrastructure management for Rail Baltica;
- **WP7.2:** an in-depth description of the proposed optimum Rail Baltica infrastructure management model, including but not limited to a proposed institutional model for the management of railway and other railway infrastructure; asset management model; infrastructure maintenance organization model; track access charging (TAC) model; capacity allocation model; a range of possible additional value added services;
- **WP7.3:** a proposed contractual model for national governments to implement the identified optimum infrastructure management model, including the contractual framework, and suggestion of material substance elements of the future Inter-Governmental Agreement on Rail Baltica infrastructure management;

#### **WP8: Risk analysis**

- Presentation of a comprehensive assessment of risks involved in the implementation of the proposed optimum infrastructure management model, as well as risks arising from not selecting the proposed optimum model; a thorough risk methodology shall be proposed by the Contractor, covering, *inter alia*, the aspects of risk probability, risk severity and mitigation measures.

#### **WP9: Conclusion and recommendations**

- Presentation of the main conclusions of the study and recommendations with regard to efficient implementation of the proposed model;

#### **WP10: Submission, presentation and public communication**

- If reasonably requested by the Contracting Authority, the Contractor shall participate in high-level governmental briefings in the three Baltic capitals during the preparation phase (at least 2 meetings in each capital) and following the submission of the Final Report (at least 2 meetings in each capital), as well as be available for public presentation of the results of the study and engagement with the mass media and other public stakeholders following the submission of the Final Report.
- Report, tables and figures, appendices, presentations and other deliverable material shall be formatted according to the EU Connecting Europe Facility (<https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>), as well as Rail Baltica visual guidelines (<http://railbaltica.org/about-rail-baltica/visual-guidelines/>) and prepared by using the Rail Baltica report document template;
- All written materials, including all deliverables, shall meet the highest standards of English language and technical terminology proficiency; if requested by the Contracting Authority, the Contractor shall engage professional proofreading services at its own expense;
- All deliverables and submitted supplementary materials (including in original (source-file) formats) shall become the intellectual property of the Contracting Authority;

### **5. CONTRACTOR'S OBLIGATIONS**

- 5.1. For the provision of services the Contractor shall remain fully responsible for the results of its services during and after the provision of services. Any additional expenses arisen due to the correction of the unacceptable results shall be covered solely by the Contractor. On reasonable grounds Contracting authority reserves the right to request the Contractor to correct the results of its services regardless whether it is necessary during the period of service provision or after completion of thereof.
- 5.2. In case Contracting authority finds (at any time of procurement process or during the implementation of the Contract for the provision of services) that provided information on the education and/or experience of a Tenderer is false, a Tenderer shall be eliminated from the procurement process or shall be subject to the termination of contract for the services (whichever is applicable).
- 5.3. The Contractor shall ensure necessary effort, means, resources and personnel required for the successful provision of services.

- 5.4. The Contractor shall be responsible for ensuring that its experts included in service contract are available throughout the service provision period.
- 5.5. The Contractor must keep records and other supporting documentation (original supporting documents) as evidence that the Contract is performed correctly and the expenses were actually incurred. These must be available for review upon the request of Contracting authority.
- 5.6. The Contractor shall make its own arrangements for office facilities, personal computers and other facilities of appropriate performance and security standard for service provision.
- 5.7. The Contractor shall ensure that its team members (experts etc.) involved in service provision are adequately supported and equipped. In particular, the Contractor shall ensure that there is sufficient administrative, secretarial and interpreting provision to enable team members to concentrate on their primary responsibilities. The Contractor must also transfer funds as necessary to support its activities under the Contract, and ensure that his employees are paid regularly and in a timely manner. Costs for administration of service contract and office operation including telecommunication costs shall be included.
- 5.8. The Contractor will arrange for formal coordination and decision making on project interventions and establish an adequate internal management structure. Progress meetings with the Contracting authority are held at least once per month. If needed, ad-hoc and weekly meetings can be arranged, which may be initiated both by the Contractor, or the Contracting Authority.

## **6. PROVISION OF SERVICES**

- 6.1. The Contractor must perform the Contract in compliance with its provisions and all legal obligations under applicable EU, international and national law within the set deadlines and to the highest professional, diligence and ethical standards.
- 6.2. The Contractor shall carry out the tasks, prepare and provide all documents, reports, minutes of the meetings and any other information material required for the provision of the services.
- 6.3. During the implementation of services, the Contractor shall identify possible risks at early stage and propose a mitigation measures in order to successfully deliver services on time.
- 6.4. Contracting authority reserves the right to ask the Contractor to provide an intermediate results (deliverables) of the services in short notice (within 5 business days), in order to check the progress of the implementation of a service contract. The Contractor within the short notice period shall provide with the information, status of the progress including proof of the thereof, such as intermediate documentation, reports, etc. This confirmation does not mean the implementation any additional assignments (reports etc.), rather confirming the progress of the implementation of service contract. Failing to do so within the short notice period or



by providing the information that it is obvious for the Contracting authority that service contract would not be completed within the specified deadlines, Contracting authority reserves the right to proceed with the procedures for breaching the Contract.

- 6.5. As a part of services, the Contractor shall prepare information material in a fully comprehensive and understandable way, by providing explicit and full source details (initial information, evidences etc.) used for the analysis and provision of services. The deliverables shall include detailed explanation of methods employed that lead to the solutions delivered by the Contractor.
- 6.6. Contracting authority shall have no influence on outcome results (reports, summary, advice, decisions etc.) delivered by the Contractor. However, Expert shall consider Contracting authority's reasoned observations on the initial information used and analysis methods employed by the Contractor to provide outcome results of the services. The implementation of such observations is subject to the approval of the services by Contracting authority.

## 7. **CONTRACTOR'S TEAM**

- 7.1. The Contractor shall propose an optimum structure for its team, based on the conditions of terms of reference, and where possible propose a core team with cross-functional roles. Experts cannot serve several roles, however the role of the project manager and the role of an expert can be combined. All experts should have an excellent written and very good verbal presentation skills in English, as well as proficiency of the railway and logistics industry professional terminology.
- 7.2. For the provision of services the Contractor shall ensure the availability of at least the following team members (experts, assistants etc.) which complies with the qualifications stipulated in Section 7.5. of the open competition Regulation:
  - 7.2.1. **Project manager – experienced in railway infrastructure management study projects**
  - 7.2.2. **Lead expert in the field of railway infrastructure management**
  - 7.2.3. **Railway industry and business development expert**
  - 7.2.4. **Railway operations expert**
  - 7.2.5. **Legal and institutional expert**
  - 7.2.6. **Infrastructure finance and economics expert**
- 7.3. The Contractor is not allowed to change its key experts during the execution of the procurement contract without the prior written approval of the Contracting Authority. The Contracting Authority is only allowed to grant an approval for such a change if the new key expert meets all the same qualification criteria as the key expert to be substituted.

- 7.4. Contracting authority reserves the right to request the Contractor to replace a team member in case of any of the following reasons:
- 7.4.1. repeated careless performance of duties;
  - 7.4.2. incompetence or negligence;
  - 7.4.3. non-fulfilment of obligations or duties stipulated in the Contract;
  - 7.4.4. poor knowledge of English language (unsatisfactory presentation, writing skills in English);
  - 7.4.5. termination of employment relations with the Contractor.
- 7.5. Failing of the Contractor to propose another expert with equivalent or better qualifications might lead to the termination of the Contract.
-

### ANNEX NO 3: ENTITIES ON WHOSE CAPABILITIES THE TENDERER RELIES

No	Name	Description of the capabilities
1		
2		
n+1		

\_\_\_\_\_  
Date: *[date of signing]*

Name: *[name of the representative of the Tenderer]*

Position: *[position of the representative of the Tenderer]*

#### ANNEX NO 4: SUBCONTRACTORS

No	Name of the sub-contractor	Sub-contracted tasks		
		Description of the sub-contracted task	Amount, EUR (without VAT)	% from the proposed price
<b>I</b>	<b>Total amount of the sub-contracted tasks is equal to or exceeds 10% from the proposed contract price</b>			
1				
2				
n+1				
		<b>Total:</b>		
<b>II</b>	<b>Total amount of the sub-contracted tasks is smaller than 10% from the proposed contract price</b>			
1				
2				
n+1				
		<b>Total:</b>		
		<b>Total (I+II)</b>		

Date: *[date of signing]*

Name: *[name of the representative of the Tenderer]*

Position: *[position of the representative of the Tenderer]*

## ANNEX NO 5: EXPERIENCE OF TENDERER

No	Description of the services which characterize the required experience	Date of completion of the services	Contract price (thousand EUR*, excl. VAT)	Contracting authority	Contact information for references
1.					
2.					
n+1					

\_\_\_\_\_  
Date: [*date of signing*]

Name: [*name of the representative of the Tenderer*]

Position: [*position of the representative of the Tenderer*]

\* If the value of the contract is in another currency than euro, for the purposes of this proposal it should be recalculated in euro in accordance with the currency exchange rate published by the European Central Bank on the date of signing of this document.

## ANNEX NO 6: EXPERIENCE OF KEY EXPERT

No	Expert's role in team				Name, Surname	
1.	Education (Educational institution)		Period of studies (month/year – month/year)		Obtained degree (-s)	
1.1.						
...						
Professional experience:						
2.	Employer, Project, Contracting authority	Period of employment or participation in the project (month/year – month/year)	Description of the responsibilities according to contract to comply with respective criteria in Section 7.5. for respective expert.		Description of project (implementation period, scope, value of the project*, total eligible costs*, countries involved in project, etc. ) Contact information for references	
2.1.						
2.2.						
n+1						

### English language skills<sup>14</sup>:

Understanding		Speaking		Writing
Listening	Reading	Spoken interaction	Spoken production	
<i>Enter level</i>	<i>Enter level</i>	<i>Enter level</i>	<i>Enter level</i>	<i>Enter level</i>

Levels: A1/A2 - Basic user; B1/B2 - Independent user; C1/C2 - Proficient user.

I confirm that I have consented that my candidature is proposed in the open competition "Rail Baltica Infrastructure Management Study", No RBR 2017/18. I confirm that in case the Tenderer [*name of the tenderer or members of the partnership*] will conclude the contract as the result of the open competition, I will participate in the execution of the contract.

\_\_\_\_\_  
Date: [*date of signing*]  
Name: [*name of the expert*]

<sup>14</sup> Language skill level is based on Common European Framework of Reference for Languages (see <http://europass.cedefop.europa.eu/resources/european-language-levels-cefr>)

## ANNEX NO 7: DRAFT CONTRACT

### CONTRACT FOR SERVICES

Riga [●]

Contract registration number

CEF<sup>15</sup> Contract No INEA/CEF/TRAN/M201[●]/[●]

C[●]

#### Parties

- (1) **RB Rail AS**, a joint stock company registered in the Latvian Commercial Register registration No 40103845025, legal address at K.Valdemāra iela 8-7, Riga, LV 1010, Latvia ("**Client**"), represented by Chairperson of the Management Board Ms Baiba Anda Rubesa, Management Board Member [●], Management Board Member [●], Management Board Member [●] and Management Board Member [●] acting on the basis of the Client's Statutes, on the one side,
- and
- (2) [●], uniform registration No [●], legal address at [●] ("**Contractor**"), represented by Management Board Member [●] acting on the basis of Statutes, on the other side,
- and
- The Client and the Contractor are jointly referred to as "**Parties**", and each separately – "**Party**",

#### WHEREAS

- (A) Core business of the Client is design, construction and marketing (including branding) of the new fast conventional double track electrified railway line with the maximum design speed of 240 km/h and European standard gauge (1435 mm) on the route from Tallinn through Pärnu Riga Panevezys Kaunas to Lithuanian Polish Border ("**Project**") financed under the auspices of Connecting Europe Facility ("**CEF**").
- (B) On [date] [month] 2017 the Client has announced a tender entitled "Rail Baltica Infrastructure Management Study" (Identification No. RBR 2017/[●]) ("**Procurement**") for efficient and timely determination and selection of a suitable infrastructure management model for Rail Baltica.
- (C) On [date] [month] 2017 the Contractor submitted proposal in response to the tender announced by the Client ("**Proposal**") and committed to prepare a comprehensive study of infrastructure management models applicable to Rail Baltica, identify the optimum model and propose a detailed infrastructure management concept and contractual model for Rail Baltica.
- (D) Pursuant to the decision of the Client dated [date] [month] 2017, the Contractor has been selected a winner in the Procurement and awarded the right to enter into the Contract.
- (E) This Contract is co-financed from the Connecting Europe Facility (CEF), CEF<sup>16</sup> Contract No INEA/CEF/TRAN/M201[●]/[●], Action No [●],

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<sup>15</sup> Grant Agreement under the Connecting Europe Facility (CEF) -Transport Sector Agreement No INEA/CEF/TRAN/M201[●]/[●]

<sup>16</sup> Grant Agreement under the Connecting Europe Facility (CEF) -Transport Sector Agreement No INEA/CEF/TRAN/M201[●]/[●]

NOW, THEREFORE, the Parties hereby enter into this contract ("**Contract**") on the following terms and conditions:

## **1. SUBJECT OF THE CONTRACT**

- 1.1. The Client hereby orders the Contractor and the Contractor hereby undertakes to develop and supply to the Client the infrastructure management of Rail Baltica study (hereinafter referred to, collectively, as the "**Services**") conforming to the following requirements and specifications:
  - 1.1.1. the specifications and requirements contained in Annex A Technical Specification of Procurement Regulations ("**Technical Specification**");
  - 1.1.2. the terms and conditions contained in Annex B Proposal;
  - 1.1.3. applicable requirements and recommendations of the European Union;
  - 1.1.4. applicable legislative acts of the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania; and
  - 1.1.5. specific instructions of the Client.
- 1.2. All deliverables and documents ("**Deliverables**") to be submitted during the execution of the Services are described in the Technical Specification.
- 1.3. The Contractor agrees to develop the Deliverables during the execution of the Services in a conscientious, diligent, expeditious, proper and workmanlike manner according to the schedule set forth in Technical Specification. The Contractor undertakes to use its best efforts, skill and experience in developing the Deliverables and to allocate toward development of the Deliverables qualified and suitable key personnel. The Contractor agrees to devote such time as is reasonably required to fulfil its duties hereunder.
- 1.4. The Contract contains the following Annexes that shall constitute integral part of the Contract:
  - 1.4.1. Annex A, the Technical Specification of the Procurement Regulation;
  - 1.4.2. Annex B, Contractor's Proposal;
  - 1.4.3. Annex C, Contractor's Declaration.
- 1.5. In the event of any inconsistency between the terms of this Contract and any of Annexes, the text of this Contract shall take precedence over any term set forth in any of Annexes. In the event of any inconsistency between the terms of any of Annexes, the order of precedence of the text of such Annexes (including any calculation) shall be established according to the sequence of listing in Section 1.4 of the Contract.

## **2. SERVICE DELIVERY SCHEDULE**

- 2.1. During the term of this Contract, the Contractor undertakes to perform the acts and deliver the Deliverables mentioned in Section 2.3 of Annex A Technical Specification and according to the schedule mentioned in Section 2.5 of Annex A Technical Specification.
- 2.2. Any of the Deliverables specified in Section 2.1 of this Contract shall be deliverable to the Client no later than on the last business day of the respective week when completion of the respective material was scheduled to occur. All Deliverables under this Contract shall be in the English language and supplied to the Client in three (3) hard copies and electronically on an electronic data storage device.
- 2.3. The Client shall review the Deliverable within 10 (ten) working days from the date of receipt, and:
  - 2.3.1. accept the Deliverable by signing an acceptance act; or
  - 2.3.2. reject the Deliverable by means of issuing written recommendations and/or objections.
- 2.4. In the event the Deliverable is rejected, the Contractor shall have an obligation to submit to the Client a revised Deliverable no later than within 10 (ten) working days from the date of receipt of



recommendations or objections from the Client, or, unless, if objectively justified, a different time for supply of the revised Deliverable is agreed between the Parties. In the event the Contractor finds any of the recommendations or objections expressed by the Client to be unjustified, the Contractor shall deliver a reasoned opinion in writing as to why the Contractor believes such recommendations or objections not to be justified.

- 2.5. Subject to any objections the Contractor may have in accordance with Section 2.4, the Contractor shall re-submit a revised Deliverable to the Client according to the provisions of Section 2.4 and the Client shall review such re-submitted Deliverable in accordance with Section 2.3 of the Contract.
- 2.6. Any of the Deliverables set out in Section 2.1 submitted to the Client shall be deemed to have been accepted by the Client upon signature by the Client of the respective act of acceptance.
- 2.7. Without prejudice to any other rights available to the Client hereunder, the Client shall have a right to request and, upon receipt of such request, the Contractor shall have an obligation to explain in writing or supplement any of the information or data contained in the any of Deliverables no later than within 10 (ten) calendar days from the date of receipt of the Client's request therefor, unless a different time for supply of specific explanations or supplements is agreed between the Parties. The Contractor agrees and acknowledges that it shall supply additional explanations and supplements in accordance with this Section without any additional fees or charges whatsoever being applicable; provided, however, that the requests for additional explanations or supplements are within the scope of the Request for Proposal, including Annex A Technical Specification.
- 2.8. The Client shall have a right, at any time during the Term, to convene one or more meetings for the assessment of the Deliverables and/or in order to discuss other matters relevant to any activities contemplated under this Contract. The place and time of such meetings shall be within the sole discretion of the Client. The Contractor undertakes to act in good faith and reasonably cooperate with the Client with respect to the holding of and participating in any such meetings.
- 2.9. Whenever required under applicable regulations or upon receipt of request from the Client, the Contractor shall ensure that the presentation materials and other documentation deliverable under this Contract features logos or other requisites pertinent to the Project, including, without limitation, reference to the fact that the Project is financed under the auspices of CEF.
- 2.10. The Deliverables, including but not limited to presentation materials and other documentation developed by the Contractor shall use the corporate visual identity approved by the Client.
- 2.11. Each Party shall have an obligation to promptly notify the other Party in writing of any event or circumstance capable of impeding the proper or timely performance of its respective obligations under this Contract.

### **3. FEE AND PAYMENTS**

- 3.1. As compensation for the preparation of the Deliverables supplied hereunder, the Client shall pay the Contractor EUR ([amount] euro and [amount] cents) (the "**Fee**") comprising the following:
  - 3.1.1. a service fee in the amount of EUR ([amount] euro and [amount] cents); and
  - 3.1.2. value added tax at the rate of 21% amounting to EUR ([amount] euro and [amount] cents).
- 3.2. The Fee is the all-inclusive consideration for the duly supplied Services. Subject to the provisions of Section 3.3 of this Contract, the Fee includes reimbursement of all and any expenditure incurred by the Contractor toward performance of any steps, actions or measures contemplated in accordance with this Contract (including, without limitation, travel costs and the cost of training of personnel of the Client). The Contractor agrees and acknowledges that, except as set forth in Section 3.3 of this Contract, it shall have no right to request reimbursement by the Client of any additional expenditure whatsoever as may have been incurred by the Contractor toward provision of the services contemplated by this Contract, unless reimbursement of such additional expenditure has been explicitly agreed between the Parties in writing.

- 3.3. Payment of the Fee for the Services is split and will be paid after completion of particular milestone and handing over of the relevant Deliverable as stipulated in Annex A Technical Specification and after Deliverable is confirmed by the Client and the Contractor by signing the acceptance act.
- 3.4. The Fee shall not be paid for Deliverable or part of it, which does not comply with the provisions of this Contract or has faults, until the non-compliance or faults have been eliminated and the Client has accepted the Deliverable delivered by signing the acceptance act.
- 3.5. Payment of the Contractor's invoices will be made in *euro*, by bank transfer to the following bank account:  
 Recipient: [●]  
 Bank: [●]  
 SWIFT: [●]  
 IBAN: [●],  
 within 30 (thirty) days after the date of receipt of the Contractor's invoice by the Client, issued on the basis of the approved acceptance act delivery of following Deliverables:
- (a) After delivery of Inception Report, the payment shall be 20% from the Fee: [●] EUR, excluding VAT;
  - (b) After delivery of Draft Final Report, the payment shall be 40% from the Fee: [●] EUR, excluding VAT;
  - (c) After delivery of Final Report, the payment shall be 40% from the Fee: [●] EUR, excluding VAT.
- 3.6. Each Party shall bear its own bank charges or expenses incurred in connection with the transfer of any payments.
- 3.7. The Contractor's invoices shall contain the following Client's details and details about the Contract:

<b>Client</b>	[●]
Registration No	[●]
VAT payer's No	[●]
Address	[●]
Name of Bank	[●]
Bank Code	[●]
Bank Account No	[●]
Subject:	For provided services according to Contract for Services No [●] (CEF <sup>17</sup> Contract No INEA/CEF/TRAN/M[●]/[●] Activity No [●])

- 3.8. The Contractor shall send the invoice to the Client electronically to the following e-mail address: [invoices@railbaltica.org](mailto:invoices@railbaltica.org). The Client shall review the invoice to verify whether it contains all necessary requisites.
- 3.9. For the avoidance of any doubts, the date of transfer of payment from the Client's account shall be deemed the date of payment.
- 3.10. All payments hereunder shall be effected against Contractor's invoices by means of transfer of funds to the bank account which is indicated in Section 3.7 of the Contract and designated in the invoice.

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<sup>17</sup> Grant Agreement under the Connecting Europe Facility (CEF) -Transport Sector Agreement No INEA/CEF/TRAN/M2017/\_\_\_\_

Change of bank details can be executed only by formal letter from Contractor signed by authorised representative.

- 3.11. If, by the time of paying a part of the Fee, the Client has obtained a claim of contractual penalty or damages against the Contractor, the Client shall have the right to deduct the relevant amount from the part of the Fee payable by submitting the relevant reasoned statement of set-off in a written format, or if the communication takes place over e-mail, in a format that can be reproduced in writing; i.e. the Client is entitled to set off the claim of contractual penalty or damages against the invoices payable to the Contractor. The statement shall be submitted at the same time as the payment or immediately after the execution of the payment, or if the amount owed by the Contractor exceeds the amount of the payment, at the latest on the date the payment would have fallen due.

#### **4. RIGHTS AND OBLIGATIONS OF THE PARTIES**

##### **4.1. The Contractor's rights and obligations**

- 4.1.1. The Contractor has the right to consult with the contact person of the Client regarding matters related to the Services.
- 4.1.2. The Contractor may use publicly available and trustworthy information sources.
- 4.1.3. The Contractor is obliged to provide the Services, develop the Deliverables in a conscientious, diligent, expeditious, proper and workmanlike manner according to the schedule set forth in Annex A Technical Specification. The Contractor undertakes to use its best efforts, skills and experience in developing the Deliverables and to allocate qualified and suitable key personnel for the provision of services. The Contractor agrees to devote such time as is reasonably required to fulfil its duties hereunder.
- 4.1.4. The Contractor has the right to receive payment of Fee or part thereof upon completion of the Services in accordance with this Contract.
- 4.1.5. The Contractor is obliged to perform the Services in accordance with the Contract, its Annexes, Procurement Regulations and applicable laws.
- 4.1.6. The Contractor shall verify and shall not procure goods or services from sub-contractors which comply with any of the following criteria:
- (i) The subcontractor or a person who is a member of the Management Board or the Supervisory Board or procurator of the sub-contractor, or a person having the right to represent the sub-contractor in activities related to a subsidiary has been found guilty of any of the following criminal offences by a punishment prescription of a prosecutor or a judgement of a court that has entered into effect and is non-disputable and not subject to appeal:
    - bribetaking, bribery, bribe misappropriation, intermediation in bribery, taking of prohibited benefit or commercial bribing;
    - fraud, misappropriation or laundering;
    - tax evasion and payments equivalent thereto,
    - terrorism, financing of terrorism, invitation to terrorism, terrorism threats or recruiting and training of a person for performance of terror acts;
  - (ii) A subcontractor, by such a decision of a competent authority or a judgment of a court that has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of an infringement of employment rights which means:
    - Illegal employment of one or more citizens or nationals of countries, which are not citizens or nationals of the European Union Member States, if they reside in the territory of the European Union Member States;
    - employment of one person without entering into a written employment contract, not submitting an informative declaration regarding employees in respect of such person within a time period laid down in the laws and regulations, which is to be submitted regarding persons who commence work;

- (iii) A subcontractor, by such a decision of a competent authority or a judgment of a court that has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of infringement of competition rights manifested as a vertical contract aimed at restricting the opportunity of a purchaser to determine the resale price, or horizontal cartel contract, except for the case when the relevant authority, upon determining infringement of competition rights, has released the candidate or tenderer from a fine or reduced fine within the framework of the co-operation leniency programme;
  - (iv) Insolvency proceedings of the subcontractor have been announced (except the case where a bailout or similar set of measures is applied within insolvency proceedings oriented towards prevention of possible bankruptcy and restoration of solvency of the debtor, in which case the Contractor evaluates the possibility of such subcontractor to participate in the execution of the Contract), economic activity of the subcontractor has been suspended or discontinued, proceedings regarding bankruptcy of the subcontractor have been initiated or the subcontractor will be liquidated;
  - (v) The subcontractor has tax debts in the country where the Procurement is organised or a country where the subcontractor is registered or permanently residing, including debts of State social insurance contributions, exceeding in total EUR 150 in each country. In this case the Contractor may invite the subcontractor to pay all tax debts within 10 (ten) business days and allow such subcontractor to continue participation in the execution of this Contract;
  - (vi) Any of the above-mentioned criteria applies to all members of a group of persons if the subcontractor is a group of persons.
- 4.1.7. Meetings at monthly intervals (or more frequently, to the extent mutually agreed by the Parties), at which appropriate personnel of the Contractor shall be present, to discuss the progress and present the deliverables. All opinions or concerns expressed at and decisions adopted during each meeting shall be duly recorded or protocolled in writing or electronically.
- 4.1.8. Upon the request of the Client and no later than within 3 (three) working days, the Contractor is obliged to provide all information related to the provision of the Services and its progress, as well as take part in meetings organised by the Client.
- 4.1.9. The Contractor is obliged to provide the Client's staff which is performing a check or audit or on-the-spot visit or any other outside body authorised by the Client to access all the information and documents, including information in electronic format, which are requested by the performer of the check or audit or on-the-spot-visit or any other outside body authorised for the performance of the check or audit or on-the-spot visit and which relates to the execution of this Contract. The Contractor shall allow the performer of the check or audit or on-the-spot visit or any other outside body authorised by the Client to copy the information and documents with due respect to the confidentiality obligation. The Contractor is obliged to agree in the contracts with its sub-contractors on the right of the Client to access and to copy their information and documents that relate to the execution of this Contract.
- 4.1.10. The Contractor is obliged to comply with the following visibility requirements:
- (a) Any reports, brochures, other documents or information connected with the Services that the Contractor produces and submits to the Client, any other third person or makes publicly available must include the following:
    - (i) a funding statement stating that the Project has received funding from European Union: "Rail Baltica is co-financed by the European Union's Connecting Europe Facility";
    - (ii) (for printed materials) a disclaimer releasing the European Union from any liability in terms of the content of the dissemination materials: "The sole responsibility of this publication lies with the author. The European Union is not responsible for any use that may be made of the information contained therein." This disclaimer can be found in all European Union official languages at the website: <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>;
    - (iii) the European Union flag.

- (b) Requirements set in Sections 4.1.10(a)(i) and 4.1.10(a)(iii) can be fulfilled by using the following logo:



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### Connecting Europe Facility

If the Contractor shall use this logo, the Contractor shall ensure that elements of the logo will not be separated (the logo will be used as one whole unit) and enough free space around the logo shall be ensured;

- (c) The Contractor is obliged to comply with the latest visibility requirements set by the European Union. For that purpose the Contractor shall follow the changes in the visibility requirements on its own. On the date of conclusion of this Contract the visibility requirements are published on the following website:  
<https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>.

#### 4.2. The Client's rights and obligations

- 4.2.1. The Client has the right to request and to receive information on the course of the Services from the Contractor within 3 (three) business days from the request.
- 4.2.2. The Client has the right to invite the Contractor no more often than once per 2 (two) weeks to provide information on the progress of the Services with the purpose to establish further actions and discuss any unclear matters.
- 4.2.3. The Client is obliged to provide all and any information to the Contractor, which it requires for the completion of the Services and which is permissible to provide pursuant to Latvian law, as well as security concerns and to perform all other obligations stipulated in this Contract.

#### 5. THE CONTRACTOR AND THE CLIENT'S PERSONNEL; CONTACT PERSONS

- 5.1. Contact person for the Client: [position], [name], [surname], phone number: [phone number], e-mail address: [e-mail address].
- 5.2. Contact person for the Contractor: position], [name], [surname], phone number: [phone number], e-mail address: [e-mail address].
- 5.3. The contact persons of the Parties shall be responsible for monitoring the progress of the performance of the obligations of each Party under this Contract and maintaining communication between the Parties. Whenever the contact person of a Party is temporarily unavailable, the duties of such contact person shall be performed by another duly qualified and competent employee of the Party.
- 5.4. The contact person of each Party shall be responsible for duly notifying the contact person of the other Party of any changes occurring in the information specified at Sections 5.1 and 5.2 of this Contract.
- 5.5. To provide the Services the Contractor shall involve key experts indicated in the Contractor's proposal who have the required qualifications listed in Annex A Technical specification and, if needed, a sufficient number of other specialists as outlined in Annex A Technical Specification. For the avoidance of doubt, it is agreed and acknowledged by the Parties that all costs and expenses incurred by the Contractor toward engagement of personnel necessary for the supply of the services under this Contract have been included in and are forming part of the Fee.
- 5.6. The Contractor shall be responsible for the work of its staff and ensure that the Client has free access to the staff during the Client's working hours. The Contractor shall ensure that the key experts indicated in the Contractor's proposal participate in meetings with the Client upon Client's request.
- 5.7. The Client must approve replacement of the key experts indicated in the Contractor's proposal. The qualifications of the proposed key experts must be equivalent to or higher than the qualifications of

the replaced expert, and the work load must be at least the same as indicated in Annex B Contractor's Proposal.

- 5.8. The Contractor must replace every staff member involved in the performance of the Services (including key experts mentioned in Annex B Contractor's Proposal, or replacement personnel), if requested by the Client and supported by any of the following reasons:
  - 5.8.1. repeated careless performance of duties;
  - 5.8.2. incompetence or negligence;
  - 5.8.3. non-fulfilment of obligations or duties stipulated in the Contract;
  - 5.8.4. termination of employment relations with the Contractor.
- 5.9. The Client shall approve or reject the replacement of key experts indicated in the Contractor's proposal as soon as possible, but no later than within 5 (five) business days after the receipt of all information and documents necessary for a decision in accordance with the provisions in this Contract.

## **6. SUBCONTRACTORS**

- 6.1. The Contractor shall be responsible for the work of subcontractors.
- 6.2. To complete the Services, the Contractor shall involve subcontractors indicated in the Contractor's proposal.
- 6.3. If the Contractor wishes to change a subcontractor who is indicated in the Contractor's proposal as a subcontractor with a work-load share of 10 (ten) per cent or more of the total Contract value (if the Contractor has not relied on the capabilities of the given subcontractor in its proposal in order to prove the Contractor's suitability pursuant to the Regulation) or to involve a new sub-contractor whose work-load share is 10 (ten) per cent of the total Contract value or more, then a written application must be submitted to the Client and written consent must be obtained. The Client agrees to the change of a subcontractor or the involvement of a new subcontractor if the proposed subcontractors do not meet the exclusion criteria defined in the first and second paragraph of Public Procurement Law, Article 42.
- 6.4. The subcontractor, upon whose capabilities the Contractor was relying on in the Procurement in order to certify the compliance of its qualification to the requirements stipulated in the Procurement Regulation, can be changed only with prior permission by the Client if the proposed subcontractor has the qualifications complying with the requirements stipulated in the Procurement Regulation and if the proposed subcontractors does not meet the exclusion criteria defined in the first and second paragraph of Public Procurement Law, Article 42.
- 6.5. The Client decides to approve or reject the change in the Contractor's subcontractors or the involvement of new subcontractors as soon as possible, but no later than within 5 (five) business days after the receipt of all information and documents necessary for a decision in accordance with this Contract.

## **7. CONTRACTUAL PENALTIES AND COMPENSATION OF DAMAGES**

- 7.1. If the Client delays the Contractual payments, then the Client shall pay a penalty of 0.2 (zero point two) per cent of the delayed payment for each day of delay, but not more than 10 (ten) per cent of the total outstanding amount.
- 7.2. If the Contractor does not comply with a deadline for submission of Deliverable(s) determined in the Contract or does not conform with the time limits set for correcting faults and errors made, the Contractor shall pay a penalty of 0.2 (zero point two) per cent of the Fee for each day of delay, but not more than 10 (ten) per cent of the total Fee.
- 7.3. In case of a unilateral termination of this Contract, not related to non-performance or improper performance of the Contract, a termination penalty of 10 (ten) per cent of the Fee is to be paid by the initiator of the termination.

- 7.4. If the Contractor fails to comply with the restrictions of professional activities laid down in this Contract, then the Contractor shall pay a penalty of 0.5 (zero point five) per cent of the Fee for each of the identified cases, but the total penalty amount may not exceed 10 (ten) per cent of the Fee.
- 7.5. The Contractor shall reimburse the Client any contractual penalties and damages; the Client may deduct this amount from any sums payable to the Contractor pursuant to the Contract.
- 7.6. The Contractor shall be entitled to claim compensation for damages from the Client, respectively, in the following cases:
  - 7.6.1. the Client unjustifiably does not approve the change of personnel and/or subcontractors;
  - 7.6.2. in other cases where the Contractor has incurred losses due to the Client's fault.
- 7.7. The Contractor shall compensate damages to the Client in the following cases:
  - 7.7.1. the Contractor has not corrected the errors or faults within the time period set by the Client;
  - 7.7.2. in other cases where the Client has incurred losses due to the Contractor's fault.
- 7.8. Without prejudice to any other rights a Party may have under this Contract, including, without limitation, the right to receive contractual penalty, each Party shall be entitled to enforce its rights under this Contract to recover damages and costs (including reasonable attorney's fees) caused by any breach of any provision of this Contract amounting up to the double of the Fee and to exercise all other rights existing in its favour, regardless of termination of this Contract for any reason whatsoever. The Parties hereto agree and acknowledge that money damages would not be an adequate remedy for any breach of this Contract and that any Party may, in its sole discretion, apply to any court of competent jurisdiction for specific performance and/or other injunctive relief in order to enforce, or prevent any violation of this Contract.
- 7.9. In order to qualify for receiving compensation the Parties shall warn each other in advance of occurrence of situations causing damages.
- 7.10. The payment of any contractual penalty hereunder shall not relieve either Party from the responsibility to perform any of the obligations of such Party set forth in the Contract or deriving from the applicable law.

## **8. AMENDING THE CONTRACT**

- 8.1. The Contract can be amended in compliance with the provisions of Article 61 of the Public Procurement Law including but not limited to the provisions of point 5 of Section 2 of Article 61.
- 8.2. If after the conclusion of the Contract amendments are made to the existing laws and regulations and in consequence the costs of Contractor's Services increase or decrease and when a prior warning has been given, then, after a mutual Contract by the Parties, the Fee is amended.
- 8.3. Amendments to the Contract are proposed by the Party who sees a need for the amendments by submitting a justification for the proposal of amendments.
- 8.4. Amendments and supplements to the Contract shall be valid only when they have been prepared in writing and signed by the Parties; they shall be enclosed to this Contract and become an integral part of it.
- 8.5. The Contractor shall be entitled to an extension of the deadline for performing the Services if:
  - 8.5.1. the Client prevents or stops the execution of Services due to circumstances outside of the Contractor's control;
  - 8.5.2. the execution of Services has been hampered by significant amendments to this Contract or its Annexes, which have not been caused by the Contractor.
- 8.6. When deciding on amending the Contract, compliance with Public Procurement Law of the Republic of Latvia, Procurement and requirements under its Regulation must be ensured.

## 9. TERM AND VALIDITY OF THE CONTRACT

- 9.1. The Contract shall enter into force on the date of signature and shall be valid until the full execution of the commitments made.
- 9.2. The Contractor has the right to unilaterally terminate the Contract if:
  - 9.2.1. the Client does not make the necessary payment for accepted Services and the Contractual penalty of this payment reaches 10 (ten) per cent of the outstanding amount and has not rectified this breach of the Contract within 20 (twenty) business days after receiving a warning of termination of the Contract from the Client;
  - 9.2.2. the Client is declared insolvent, its business activities are suspended or terminated, legal proceedings have been initiated on the Client's bankruptcy or it is established that the Client will be liquidated by the time of the Contract's expiry.
- 9.3. The Client has the right to unilaterally terminate the Contract if:
  - 9.3.1. the Deliverables are not submitted within 15 (fifteen) days after the submission deadline for each Deliverable or if the Contractor has not corrected the errors and faults within the Client's prescribed time period;
  - 9.3.2. the Contractor's Contractual penalty reaches 10 (ten) per cent of the Fee;
  - 9.3.3. the Contractor has been declared insolvent, its business activities are suspended or terminated, legal proceedings have been initiated on the Contractor's bankruptcy or it is established that the Contractor will be liquidated by the time of the Contract's expiry;
  - 9.3.4. the Contractor fails to perform key expert replacement according to the procedure prescribed in this Contract and has not rectified this breach of the Contract within 10 (ten) business days after receiving a warning from the Client;
  - 9.3.5. if the Contractor fails to comply with the restrictions on professional activities laid down in this Contract.
- 9.4. If the Client has unilaterally terminated the Contract due to non-fulfilment of the obligations undertaken in the Contract by the Contractor, the Client has the right within 12 (twelve) months from the date of the termination of the Contract to disqualify the Contractor from participation in any tenders organized by the Client.
- 9.5. By a mutual written Contract, the Parties may terminate the Contract for any other reason.
- 9.6. If any of the provisions of the Contract become void, it shall not affect other provisions of the Contract.

## 10. COPYRIGHT

- 10.1. The Contractor acknowledges that, as between the Parties, the Client owns all right, title, and interest in and to all components of all Deliverables and all related documentation, including all improvements and derivatives thereof and modifications thereto. The Contractor may not assign, transfer, sell, license, sublicense or grant any right in or to the any of Deliverables to any other person or entity.
- 10.2. Unless agreed otherwise in writing between the Parties, the Contractor hereby transfers to the Client and the Client shall have ownership of all intellectual property rights (except personal copyrights of an author) created, developed, subsisting or used in relation to provision of the Services under this Contract, whether in existence at the date hereof or created in the future (hereinafter – the **"Intellectual Property Rights"**) in the documents or other material and data or other information provided to the Contractor in the context of this Contract. For the avoidance of doubt all Deliverables and submitted supplementary materials (including, but not limited to fully functional model source files containing developed formulas for all models, for example, life-cycle cost model, asset management model, infrastructure maintenance organization model, track access charging (TAC) model and capacity allocation model) shall become the intellectual property of the Client. The copyright is transferred to the Client on an ongoing basis, i.e. immediately after the completion of a part of the Deliverable that falls under the concept of a "work" under Copyright Law of the Republic of Latvia, without the need to deliver or present the respective part of the Deliverable to the Client. For the avoidance of doubt, the Contractor shall be deemed to have granted the Client also the right to



use the documents or other material and data or other information for whatever purpose, including but not limited to publishing such documents, either in full or in part.

- 10.3. The copyright fee has been included in the Fee. The transfer of copyrights shall also remain valid if the Contract is prematurely terminated for any reason and/or terminated without the complete delivery of the Deliverables.
- 10.4. The Client has the right to publish material submitted by the Contractor without the Contractor's permission, as well as to require the Contractor to change it, to redo it, to divide it into parts. If the Contractor and the Client cannot agree on the execution of this work, the Client is entitled to involve another Contractor in carrying out the said task.
- 10.5. The Contractor shall undertake to ensure that the Services, the execution of Services or the use of the any of the Deliverables not violate the rights, including copyright, of third persons.
- 10.6. If the Services, the execution of the Services or the use of the Deliverables or other deliverables produced while rendering the Services violate the rights of third persons, the Contractor shall be liable for the violation. The Contractor shall be obliged to compensate the damage caused to third persons and satisfy for the Client any claims for the compensation of damage filed against the Client by third persons.

## 11. CONFIDENTIALITY AND PROFESSIONAL RESTRICTIONS

- 11.1. The Contractor agrees that any information ("**Confidential information**") obtained in the course of fulfilment of the Contract will be considered as confidential.
- 11.2. The Contractor undertakes not to disclose without a prior written consent of the Client any Information obtained in the course of fulfilment of the Contract, save for the cases referred to in Section 11.4 of the Contract. This provision shall be applicable during the validity of the Contract, and shall remain effective also after the expiration or termination of the Contract.
- 11.3. The Contractor undertakes to provide Information to their employees only to the extent required for provision of the Services and due performance of the Contract. The Contractor ensures that its employees or other persons involved in the provision of the Services respect the provisions of confidentiality defined in the Contract. The Contractor shall be fully responsible for the damages caused to the Client due to the reveal of the Information to the third persons, disregarding whether the Information was revealed by the Contractor itself, its employees or by other persons involved in the provision of the Services.
- 11.4. The disclosure of the Information will not be considered a breach of the Contract if it is revealed due to the legislative requirements and in accordance with the provisions of the normative enactments or EU legislation, including the obligation of the Client to disclose the Contract terms to any authorities controlling spending of public funds.
- 11.5. The Contractor, if itself or through its engaged persons is in breach of the confidentiality obligation, shall compensate direct losses incurred by the Client.
- 11.6. During the validity of this Contract, the Contractor, as well as their staff, must not engage directly or indirectly in business, financial or professional activities that may affect the execution of Services specified in this Contract and the results of the procurement procedure.
- 11.7. The Contractor undertakes not to use any information or material or other kind of valuables for purposes other than the provision of the Services, e.g. use for commercial gain, use in any way to make it public, reproduce, etc.
- 11.8. Upon the earlier of:
  - 11.8.1. expiration of the Term;
  - 11.8.2. termination of this Contract; or
  - 11.8.3. a written request by the Company,the Contractor shall return to the Company all Confidential Information in its possession or control, including any copies, reproductions, or derivative works thereof.
- 11.9. The confidentiality obligation shall not expire in time.

- 11.10. If the Contractor violates its confidentiality obligation, then it shall be liable to pay to the Client a contractual penalty in the amount corresponding to thrice (3x) the total sum of Fee.

## **12. FORCE MAJEURE**

- 12.1. Parties are exempt from liability for full or partial non-compliance with the Contract if such failure is due to force majeure or extraordinary circumstances that began after the conclusion of the Contract and that could not have been previously foreseen or prevented. Force majeure or extraordinary circumstances include: natural disasters, including nature catastrophes, other disasters and accidents, epidemics, acts of war, strikes, internal unrest, blockades, as well as the adoption of such legislation that prevents all or one of the Parties to continue the fulfilment of the Contract, and other circumstances that do not fall within the Parties' possible control.
- 12.2. A Party who refers to the effect of force majeure or extraordinary circumstances, must immediately, but not later than within five (5) days, report these conditions in writing to other Parties. The report shall state the period within which, in its opinion the Contractual obligations may be performed and expected, and at the other Party's request, a notification issued by a competent authority must be submitted, containing a confirmation of the occurrence of force majeure event or exceptional circumstances, as well as their description. When the further execution of the Contract is not possible, the Parties shall draw up an Act of Acceptance and the Contractor shall receive payment for all of the properly performed part of the Services submitted. If the force majeure continues for more than one (1) month and the Parties are unable to agree on the further execution of the Contract, either Party has the right to unilaterally terminate the Contract by submitting a written notice to the other Parties.

## **13. ON-THE-SPOT VISITS**

- 13.1. By giving a written notice 5 (five) working days in advance, but in case of an unannounced check without an advance notice, the Client may carry out on-the-spot visits to the sites and premises where the activities implemented within the Contract are or were carried out.
- 13.2. On-the-spot visits may be carried out either directly by the authorised staff of the Client or by any other outside body authorised to do so on behalf of the Client. Information provided in the framework of on-the-spot visits shall be treated on confidential basis. The Client shall ensure that any outside body authorised shall be bound by the confidentiality obligation.
- 13.3. Contractor shall provide to the performer of the on-the-spot visit or any other outside body authorised access to all the information and documents, including information and documents in electronic format, which is requested by the authorised staff of the performer of the on-the-spot visit or any other outside body authorised for the performance of an on-the-spot visit and which relates to the implementation of the Contract, as well as shall allow the authorised staff of the performer of the on-the-spot visit or any other outside body authorised copying of the information and documents, with due respect to the confidentiality obligation.
- 13.4. By virtue of Council Regulation (Euratom, EC) No 2185/961 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities and Regulation (EU) No 883/20132 of the European Parliament and the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities. Where appropriate, OLAF findings may lead to criminal prosecution under national law.

## **14. TECHNICAL, LEGAL AND FINANCIAL CHECKS AND AUDITS**

- 14.1. By giving a written notice 5 (five) working days in advance, but in case of an unannounced check or audit without an advance notice, the Client may carry out technical, legal and financial checks and audits in relation to the implementation of the Contract.
- 14.2. Checks and audits may be carried out either directly by the authorized staff of the Client or by any other outside body authorised to do so on Client's behalf.

- 14.3. Information and documents obtained in the framework of checks or audits shall be treated on a confidential basis. Client shall ensure that its staff and any outside body authorised by the Client be bound by the confidentiality obligation.
- 14.4. Contractor shall provide to the performer of the check or audit or any other outside body authorised access to all the information and documents, including information in electronic format, which is requested by the performer of the check or audit or any other outside body authorised for the performance of the check or audit and which relates to the implementation of the Contract, as well as shall allow the performer of the check or audit or any other outside body authorised by it copying of the information and documents with due respect to the confidentiality obligation

## **15. GOVERNING LAW; RESOLUTION OF DISPUTES**

- 15.1. The rights of the Parties hereto and the validity, interpretation and implementation of this Contract shall be governed by and construed and interpreted in accordance with the laws of the Republic of Latvia. In the event of any dispute, controversy, or claim arising out of or relating to this Contract, or the breach, termination or invalidity hereof or thereof, the disputing Party shall provide written notice thereof to the other Party. The Parties shall attempt in the first instance to resolve such dispute through amicable consultations.
- 15.2. When any dispute occurs, and is the subject of amicable consultations, the Parties shall continue to exercise their remaining respective rights, and fulfil their remaining respective obligations, under this Contract.
- 15.3. If the dispute is not resolved by amicable consultation within thirty (30) days after notice of a dispute is given by a Party, then any Party may submit the dispute for final resolution by a competent court of the Republic of Latvia.

## **16. ADDITIONAL PROVISIONS**

- 16.1. All types of notices, orders, approvals, attestations, Contracts and decisions to be issued pursuant to the Contract or other communication to be given in accordance with this Contract must be issued in writing and duly signed by the notifying Party or on its behalf and delivered in person or sent by prepaid registered mail to the address of the relevant party specified below (or as otherwise notified by the party concerned pursuant to this Contract):
- RB Rail AS:
- Address: K.Valdemāra iela 8-7, Riga, LV-1010, Latvia
- Contractor:
- Address: [●]
- 16.2. Any such notice shall be deemed to be received:
- 16.2.1. if delivered personally – upon delivery;
- 16.2.2. if delivered by prepaid registered mail – 5 (five) business days after the date of sending.
- 16.3. For the avoidance of doubt, unless expressly otherwise provided for in this Contract, a notice given under this Contract shall not be deemed to be duly delivered if sent by e-mail.
- 16.4. Communication between the Parties (e.g. information, requests, submissions, formal notifications, etc.) during the Contract must be carried out in English.
- 16.5. If the final day of a time period referred to in this Contract is Saturday, Sunday or a holiday prescribed by law, the following working day shall be considered the final day of the time period.
- 16.6. The Contract is concluded in 2 (two) copies, one for each, all having the same legal effect.

## 17. ANNEXES<sup>18</sup>

Annex A – Technical Specification of the Procurement Regulation for the Procurement No [●] “[●]”.

Annex B –Contractor’s Proposal;

Annex C – Contractor’s Declaration.

## 18. DETAILS OF THE PARTIES

	<b>Client:</b>	<b>Contractor:</b>
	<b>RB Rail AS</b>	[●]
Registration No	40103845025	[●]
Address	K. Valdemāra iela 8-7 Riga, LV 1010, Latvia	[●]
Contact Person:	[●]	[●]
Phone:	[●]	[●]
E-mail:	[●]	[●]
Signature:	_____	_____
	Baiba Anda Rubesa	[●]
	Chairperson of the Management Board	[●]
	_____	
	[●]	
	the Management Board Member	
	_____	
	[●]	
	the Management Board Member	

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<sup>18</sup> *Content of this Section can change after results of the procurement.*

## ANNEX C: CONTRACTOR'S DECLARATION

I, the undersigned duly authorised representative, on behalf of [*name of the Contractor*] undertake:

1. To respect the freely-exercised right of workers, without distinction, to organize, further and defend their interests and to bargain collectively, as well as to protect those workers from any action or other form of discrimination related to the exercise of their right to organize, to carry out trade union activities and to bargain collectively;
2. Not to use forced or compulsory labour in all its forms, including but not limited to not employ people against their own free will, nor to require people to lodge 'deposits' or identity papers upon commencing employment;
3. Not to employ: (a) children below 14 years of age or, if higher than that age, the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of a contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher; and (b) persons under the age of 18 for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons;
4. To ensure equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and such other ground as may be recognized under the national law of the country or countries where the performance, in whole or in part, of a contract takes place;
5. To ensure the payment of wages in legal fashion, at regular intervals no longer than one month, in full and directly to the workers concerned; to keep an appropriate record of such payments. Deductions from wages will be conducted only under conditions and to the extent prescribed by the applicable law, regulations or collective Contract, and the workers concerned shall be informed of such deductions at the time of each payment. The wages, hours of work and other conditions of work shall be not less favourable than the best conditions prevailing locally (i.e., as contained in: (i) collective Contracts covering a substantial proportion of employers and workers; (ii) arbitration awards; or (iii) applicable laws or regulations), for work of the same character performed in the trade or industry concerned in the area where work is carried out;
6. To ensure, so far as is reasonably practicable, that: (a) the workplaces, machinery, equipment and processes under their control are safe and without risk to health; (b) the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and (c) where necessary, adequate protective clothing and protective equipment are provided to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects to health;
7. To support and respect the protection of internationally proclaimed human rights and not to become complicit in human rights abuses;
8. To create and maintain an environment that treats all employees with dignity and respect and will not use any threats of violence, sexual exploitation or abuse, verbal or psychological harassment or abuse. No harsh or inhumane treatment coercion or corporal punishment of any kind is tolerated, nor is there to be the threat of any such treatment;
9. To have an effective environmental policy and to comply with existing legislation and regulations regarding the protection of the environment; wherever possible support a precautionary approach to environmental matters, undertake initiatives to promote greater environmental responsibility and encourage the diffusion of environmentally friendly technologies implementing sound life-cycle practices;
10. To identify and manage chemical and other materials posing a hazard if released to the environment to ensure their safe handling, movement, storage, recycling or reuse and disposal;
11. To monitor, control and treat as required prior to discharge or disposal wastewater and solid waste generated from operations, industrial processes and sanitation facilities;
12. To characterize, monitor, control and treat as required prior to discharge or disposal air emissions of volatile organic chemicals, aerosols, corrosives, particulates, ozone depleting chemicals and combustion by-products generated from operations;
13. To reduce or eliminate at the source or by practices, such as modifying production, maintenance and facility processes, materials substitution, conservation, recycling and re-using materials, waste of all types, including water and energy;
14. To adhere to the highest standards of moral and ethical conduct, to respect local laws and not engage in any form of corrupt practices, including but not limited to extortion, fraud, or bribery;
15. To disclose (a) any situation that may appear as a conflict of interest, such as but not limited to: where a Contractor or an undertaking related to the Contractor has advised a Beneficiary or Implementing Body or has otherwise been involved in the preparation of the procurement procedure; and (b) if any Beneficiaries' or

Implementing Bodies' official, professional under contract with Beneficiary or Implementing Body or sub-contractor may have a direct or indirect interest of any kind in the Contractor's business or any kind of economic ties with the Contractor;

16. Not to offer any benefit such as free goods or services, employment or sales opportunity to a Beneficiary's and Implementing Body's staff member in order to facilitate the Contractors' business with Beneficiaries or Implementing Bodies;
17. Within a period set in the applicable national legislation following separation from service or award of a contract, as the case may be, to refrain from offering employment to any Beneficiaries' and Implementing Bodies' staff in service and former Beneficiaries' and Implementing Bodies' staff members who participated in the procurement process and to whom a legal restriction to receive material benefits from or be employed by a Contractor which participated in a procurement procedure or restrictions with similar effect applies;
18. To promote the adoption of the principles set forth in this Contractor's Declaration by my potential business partners and promote the implementation of the principles set forth in this document towards own Contractors;
19. Not procure goods, works and services from other Contractors:
  - a. Who, or its member of the Management Board or the Supervisory Board or procurator of such Contractor, or a person having the right to represent such Contractor in activities related to a subsidiary, has been found guilty in any of the following criminal offences by a such punishment prescription of prosecutor or a judgement of a court that has entered into effect and is non-disputable and not subject to appeal:
    - i. bribetaking, bribery, bribe misappropriation, intermediation in bribery, taking of prohibited benefit or commercial bribing;
    - ii. fraud, misappropriation or laundering;
    - iii. evading payment of taxes and payments equivalent thereto,
    - iv. terrorism, financing of terrorism, invitation to terrorism, terrorism threats or recruiting and training of a person for performance of terror acts;
  - b. who, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of an infringement of employment rights which means:
    - i. employment of such one or more citizens or nationals of countries, which are not citizens or nationals of the European Union Member States, if they reside in the territory of the European Union Member States illegally;
    - ii. employment of one person without entering into a written employment contract, not submitting an informative declaration regarding employees in respect of such person within a time period laid down in the laws and regulations, which is to be submitted regarding persons who commence work;
  - c. who, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of infringement of competition rights manifested as a vertical Contract aimed at restricting the opportunity of a purchaser to determine the resale price, or horizontal cartel Contract, except for the case when the relevant authority, upon determining infringement of competition rights, has released the candidate or tenderer from a fine or reduced fine within the framework of the co-operation leniency programme;
  - d. whose insolvency proceedings have been announced (except the case where a bailout or similar set of measures is applied within insolvency proceedings oriented towards prevention of possible bankruptcy and restoration of solvency of the debtor, in which case I shall evaluate the possibility of such Contractor to participate in the tender), economic activity of such Contractor has been suspended or discontinued, proceedings regarding bankruptcy of such Contractor have been initiated or such Contractor will be liquidated;
  - e. who has tax debts in the country where the procurement is organised or a country where such Contractor is registered or permanently residing, including debts of State social insurance contributions, in total exceeding an amount which is common threshold in public procurements in the respective country.

\_\_\_\_\_ [signature] [name, last name] [position] [date]