

**AGREEMENT ON SOFTWARE SUPPLY, IMPLEMENTATION AND MAINTENANCE
FOR RAIL BALTICA BIM SYSTEM**

between

RB Rail AS

and

Bentley Systems International Limited

Agreement registration number **8/2019-_____**

CEF¹ Agreement No. INEA/CEF/TRAN/M2016/1360716 **C1.1.7**

Procurement procedure identification No. **RBR 2018/26**

Riga
Dated 17 October 2019

¹ Grant Agreement under the Connecting Europe Facility

RB Rail AS, registration No 40103845025, registered address: Krišjāņa Valdemāra iela 8 - 7, Riga, LV-1010, Latvia, represented by two Management Board Members acting on the basis of the Regulations on Representation Rights dated 25 May 2018, on the one side, (the **Customer**),

and

Bentley Systems International Limited, registration No 474589, registered address: Charlemont Exchange, 5th Floor, Charlemont Street, Dublin 2, Ireland, represented by

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on the second side (the **Supplier**),

jointly also referred as the Parties (the **Parties**), hereby enter into the following Agreement on the Software Supply, Implementation and Maintenance for Rail Baltica BIM System (the **Agreement**) as the result of competitive procedure with negotiation No RBR 2018/26:

1. SUBJECT MATTER OF THE AGREEMENT

- 1.1. The Supplier undertakes to supply OpenRail CDE - ProjectWise Edition (Connected Data Environment) solution (the **Software**) to the Customer on an "end user" basis under the terms of the licence issued by the Supplier to the Customer (Annex 2).
- 1.2. The Supplier will provide the Software installation and configuration of the Software, as well as the installation and configuration of the cloud solution as specified in Annex 7 of the Agreement on the devices required by the Customer and provide unlimited cloud storage accessible for the Customer within the deadlines set out in this Agreement and meeting the technical requirements set out in the Technical Proposal (Annex 7). Each milestone of the installation and configuration of the Software and cloud solution as specified in Annex 8 of the Agreement should be started after receiving the confirmation of the Customer in written. Such confirmation should be provided to the Supplier via e-mail by the Customer's Contact person.
- 1.3. The Supplier undertakes to provide a constantly available (24 hours a day / 7 days a week) support service to the Customer by e-mail, phone and online during the period of the Agreement, in accordance with Supplier's standard conditions provided in Technical proposal (Annex 7).
- 1.4. The Supplier will provide training to the Customer's employees in accordance with the deadlines and requirements of the Agreement and Annex 7 and will provide training materials in the amount and form set out in Annex 7 of the Agreement.
- 1.5. The above-mentioned Software installation and storage installation, configuration, support, and training, as well as provision of training materials in the context of this Agreement together are called the Products (the **Products**).
- 1.6. When fulfilling the obligations under this Agreement, the Supplier undertakes to deliver the Products in a workmanlike and professional manner.
- 1.7. The Customer will pay the Supplier the fees within the deadlines and in the amount set in this Agreement.

1.8. The Supplier undertakes to be compliant with all of the requirements of the Supplier's Declaration contained in Annex 6 (Supplier's Declaration) and will continue to be compliant with all such requirements during the term of this Agreement.

2. SUBCONTRACTING

2.1. The Supplier has the right to hire a sub-contractor (the **Sub-Contractor**) for the delivery of the Products required by this Agreement subject to the conditions described below in this section.

2.2. The Supplier undertakes to reflect the same terms and conditions as in this Agreement into the sub-contract agreement with the Sub-Contractor.

2.3. The Supplier and the Sub-Contractor must be entities which process data solely in the countries of the European Union and which are compliant with the requirements of the GDPR² and the Information Security Directive³ and the applicable national legal acts in the field of personal data protection and information security.

2.4. Appointment or replacement of each Sub-Contractor and any agreement made in that respect between the Supplier and a Sub-Contractor is subject to the Customer's prior written approval.

2.5. The Supplier remains liable for the performance of this Agreement and has an obligation to ensure that any Sub-Contractor adheres to the applicable provisions of this Agreement.

2.6. The Sub-Contractor must be able to meet the same data processing and information security requirements as the Supplier.

2.7. If the Supplier wants to replace the Sub-Contractor, the Supplier submits a prior written application to the Customer. The application must be accompanied by information and documents proving that the proposed Sub-Contractor meets the requirements of the Agreement.

2.8. The Customer refuses sub-contracting of such company, if the potential Sub-Contractor does not meet the requirements of the Agreement or its staff does not meet the same professional qualification and experience as the staff evaluated in the selection procedure in order to determine the most economically advantageous tender.

2.9. The Customer refuses sub-contracting of the company, if the initial indication of the proposed Sub-Contractor in the offer would have influenced the selection of the tender in accordance with the tender evaluation criteria specified in the procurement documents.

3. REPLACEMENT

3.1. The Sub-Contractor and the Project Manager indicated in the Supplier's application and as indicated in Annex 9 of the Agreement may only be replaced by prior approval of the Customer.

² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC

³ Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union

- 3.2. The Customer will adopt a decision to allow or refuse replacement of the Project Manager or Sub-Contractor as soon as possible, but not later than within five working days after receiving all the information and documents necessary for making the decision.
- 3.3. The Customer refuses to replace the Sub-Contractor if:
 - 3.3.1. the proposed Sub-Contractor does not meet qualification criteria set out in the procurement procedure;
 - 3.3.2. the existing Sub-Contractor has the qualities, which the Supplier has relied on in order to prove its own conformity with the requirements of the Agreement and the procurement procedure documents, and the proposed Sub-Contractor does not have at least the same qualification as the previous Sub-Contractor, or if the proposed Sub-Contractor meets the exclusion criteria set out in the procurement procedure;
 - 3.3.3. the proposed Sub-Contractor whose value of work is at least 10% of the total value of the Agreement meets the exclusion criteria set out in the procurement procedure;
 - 3.3.4. the change of the Sub-Contractor would affect the selection of the tender in accordance with the tender evaluation criteria specified in the procurement procedure.
- 3.4. The proposed Project Manager must meet the same qualification criteria as the Project Manager indicated in the Supplier's offer.
- 3.5. The Customer refuses the replacement of the Project Manager, if the new Project Manager does not meet criteria set out in the procurement procedure or he/she does not meet at least the same criteria which were evaluated when choosing the most economically advantageous offer.
- 3.6. The Project Manager indicated in the offer may be replaced. Sections 3.4 and 3.5 remain applicable to such replacement.

4. PRODUCTS

- 4.1. The Supplier installs and configures the Software within the timeframe, referenced in the project schedule, as included in Technical proposal (Annex 7).
- 4.2. The Supplier ensures unlimited storage space (the **storage space**) for the Customer's data throughout the duration of the Agreement, unless the Customer uses its rights of Partial Termination as described in Section 15.3.
- 4.3. The Supplier provides system and service support of the Software and cloud solution in accordance with the Supplier's standard conditions provided in Technical proposal (Annex 7).

5. DELIVERY AND ACCEPTANCE

- 5.1. The Parties agree that the acceptance of Products will be confirmed by a mutual signing of the Delivery-Acceptance Deed.
- 5.2. The Customer will sign the Delivery-Acceptance Deed only if the Products delivered by the Supplier comply with Technical proposal (Annex 7) and the Customer does not have objections against the quality of the delivered Products.

- 5.3. Any objections and/or claims with respect to the Software will be limited by the terms of the End User License Agreement (Annex 2), SELECT Program agreement (Annex 4) and the Service Level Agreement (Annex 5); whereas any objections and/or claims concerning the deliverables of the Products will be handled as follows:
- 5.3.1. when complete, the Supplier shall submit final deliverables and a copy of a "Deliverable Acceptance Deed" to the Customer's identified person(s), who will conduct a review to determine the deliverables' conformance with the Supplier's Technical proposal (Annex 7). Upon completion of this review the Customer will complete the Deliverable - Acceptance Deed indicating acceptance or rejection and return it to the Supplier;
- 5.3.2. if a deliverable is neither accepted nor rejected within ten (10) business days, the deliverable will be deemed to have been accepted by the Customer without change or comment. The Customer may also request an extension to the ten (10) day acceptance period, which will not be unreasonably withheld by the Supplier unless it affects the schedule defined in the Technical proposal (Annex 7), which could then trigger a change request that may impact the project timeline, resources and/or cost;
- 5.3.3. if the Customer rejects a deliverable, the Customer will provide Supplier with a written description of why the deliverable was rejected on the Deliverable - Acceptance Deed. If the identified deliverable discrepancies are mutually agreed to be within the Technical proposal (Annex 7) or other documentation approved by Parties, the Supplier shall rework the deliverable at its sole cost as necessary to achieve its conformance with the Technical proposal (Annex 7). If the discrepancies are mutually agreed to be outside the specifications, the Customer shall either accept the deliverable as-is or request a change order. If the Parties cannot come to an agreement regarding the discrepancies, the issue shall be elevated to respective management teams to discuss the deliverable and project specifications in detail.

6. PAYMENTS

- 6.1. The Customer undertakes to pay for the delivered Products to the Supplier's bank account indicated in this Agreement within thirty (30) days after the mutual signing of the Delivery-Acceptance Deed and receipt of the respective invoice, with the exception of a yearly license fee provided in Section 6.2.2 below for the use of the Software and the storage space, which the Customer pays on yearly bases.
- 6.2. The Customer undertakes to make the following payments to the Supplier:

No	Payment	Fee, EUR (excl. VAT)	Milestones covered by respective fee according to Annex 8	Deadline for milestone delivery (weeks after CD*)
6.2.1.	A single payment for the implementation of the CDE Baseline part (except trainings) according to Annex 7 and Annex 8 after all mentioned Milestones have been delivered.	297 765,00	MS-00	16 weeks
			MS-01	
			MS-02	
			MS-03	

			MS-04	
			MS-05	
			MS-06	
			MS-08	
			MS-09	
6.2.2.	A yearly license fee for the use of the Software and the storage space, which includes maintenance and support of the Software.	Fees specified in Section 8.1	-	
6.2.3.	A yearly license fee for any additional licenses if such are requested by the Customer.	Fees specified in Section 8.2.	-	
6.2.4.	A training session (under CDE Baseline part) fee, including the fee for provision of training materials and the User Manual and Administrator Manual as described in the Annex 7 and Annex 8 after mentioned Milestone has been delivered.	53 625,00	MS-07	

*CD – Commencement date

- 6.3. The Customer undertakes to make to the Supplier the following payments (fully or partly) according to separate mutual agreement between the Customer and Supplier on options which shall be ordered and executed from the CDE Extension part according to Annex 7 and Annex 8:

No	Payment	Fee, EUR (excl. VAT)	Milestones covered by respective fee according to Annex 8
6.3.1.	A single payment for the implementation of the CDE Extension part (including the fee for provision of training sessions (including the materials and the User Manual and Administrator Manual) according to Annex 7 and Annex 8 after delivery of the Milestone.	34872,50	MS-10
		26480,00	MS-11
		38447,50	MS-12
		37417,50	MS-13
		34115,00	MS-14
		32327,50	MS-15
		25450,00	MS-16

- 6.4. When extending the license for the next one-year period, the Supplier issues an invoice thirty (30) days in advance before the start of the next licensing period.
- 6.5. All payments are indicated including all and any taxes (except VAT), if such are payable according to the applicable law.
- 6.6. All the invoices have to be issued electronically and sent to the Customer's e-mail address: invoices@railbaltica.org.
- 6.7. The Parties agree that in accordance with the Law on Accounting and Value Added Tax Law of the Republic of Latvia the invoices may be issued without the requisite "signature".

7. RESIDENCE CERTIFICATE

- 7.1. The Supplier represents and warrants to the Customer, as of the effective date of this Agreement, that its income from this Agreement will not derive through permanent establishment or fixed base maintained by the Supplier in the Republic of Latvia.
- 7.2. The Supplier agrees to submit to the Customer 4 (four) copies of "Residence Certificate–Application for Reduction of or Exemption from Latvian anticipatory taxes withheld at source from payments (management and consultancy fees, leasing fees and certain other types of income), paid to residents of the Republic of Ireland" (the **Residence Certificate**) confirmed by Competent Authority of the Republic of Ireland and the Latvian State Revenue Service.
- 7.3. The Residence Certificate must be submitted to the Customer prior the Customer is due to make a payment of the fee or other payments to the Supplier. Otherwise the Customer withholds withholding tax at the rate of 20% from the payments made to the Supplier.
- 7.4. The Customer will make relevant deductions from the payments due to the Supplier if the Supplier does not comply with this provision.

8. LICENSE FEE

- 8.1. The Customer undertakes to pay a standard yearly license fee for the use of Software and the storage space as set in the Supplier's Financial proposal (Annex 8).
- 8.2. The Customer reserves the right to request the inclusion of the additional Software accounts during the term of the Agreement subject to additional costs. The Customer undertakes to pay no more as standard yearly license fee according to Clause 8.1. of the Agreement.

9. TRANSFER OF RIGHTS

- 9.1. The Supplier grants a license to the Customer to use the Software in accordance with Annex 7.
- 9.2. Following completion of the deployment and configuration phase of the project and upon final acceptance of the delivered solution, the Supplier shall ensure the rights to change the configuration of the storage space by the employees of the Customer's IT Department within 30 (thirty) days from the installation of the storage space; for this purpose the employees of the Customer shall have access rights to configure the Software as described in the Technical Proposal (Annex 7). Any such configuration(s) shall be done in consultation with Supplier, either via e-mail or during a meeting between the parties and as confirmed by the minutes of said meeting. Supplier shall not be liable for any

problems and/or issues caused by any configurations and/or changes to the system, which were not discussed and approved by Supplier.

- 9.3. In order to ensure its business continuity, the Customer is allowed to make a back-up copy of all data stored in the Software and store it on its own devices.
- 9.4. In the event of termination of the Agreement, the Customer has the right to immediately extract its data from the Software and from the cloud storage and obtain the audit history trail from the Software. This applies to the respective extent in case of the Partial Termination (Section 15.3). The Supplier will not prevent or disturb the Customer in any way within the process of the extraction of data, and the Supplier must ensure the possibility of the extraction of the data in an unencrypted, compatible and interoperable manner.
- 9.5. If liquidation, bankruptcy, insolvency or legal protection proceedings have been initiated against the Supplier or the Supplier itself has filed for liquidation, bankruptcy, insolvency or legal protection proceedings, or the Products cease to exist, the Supplier must immediately notify the Customer and must ensure the extraction of data and audit history trail as set out in Section 9.4.

10. SIGNIFICANT CHANGES

- 10.1. If the Products cease to exist within the period of the Agreement, the Supplier will pay to the Customer the contractual penalty in amount of EUR 10 000.
- 10.2. If major interface and or/functionality changes of the Software are made by the Supplier, the Customer has the following rights:
 - 10.2.1. the Supplier has to provide and/or make available online training materials and/or release notes on new functionality of the Products without additional cost;
 - 10.2.2. to obtain without additional cost the latest version of the Products for all the Customer's users licensed by the Supplier;
 - 10.2.3. if after a significant change the Products do not meet the Customer's needs specified in Annex 7 to the Agreement, the Customer can opt to use the prior version of the Software, which was meeting their requirements. If the usage of such prior version is not possible, Customer has rights to terminate the Agreement without a prior notice. For clarity, should Supplier discontinue support and maintenance on any such prior version of the Products, this shall constitute impossibility to use said version and shall allow Customer to consider termination.

11. TRAINING

- 11.1. The Supplier undertakes to provide one-time on-site training in Riga to the employees of the Customer on the use of Software (for all possible platforms) and the cloud storage in accordance with the schedule and project plan as included in Annex 7.
- 11.2. In addition to the training the Supplier is obliged to provide a training material for the end-users, the User Manual and the Administrator Manual as described in Annex 7 not later than 5 (five) business days prior to the on-site training day agreed by the Parties.
- 11.3. The Customer reserves the right to record the video training and use it solely only for license users training on non-commercial basis.

12. TECHNICAL SUPPORT

- 12.1. The Supplier will provide 24-hour technical support seven (7) days a week (including weekends and any public holidays) via phone 1800 948368; +353 1 436 4600, provided that after the normal business hours at the Customer's regional support location, the Customer may be required to contact another regional support centre.

13. INTELLECTUAL PROPERTY

- 13.1. The Customer has rights to use the Software provided by the Supplier in accordance with the End-User License Agreement(s) (Annex 2) and the SELECT Program Agreement (Annex 4).
- 13.2. The Customer will prevent any infringement of the Supplier's intellectual property rights in the Software and will promptly report to the Supplier any such infringement that comes to its attention. In particular, the Customer:
- 13.2.1. will ensure that each user, before starting to use the Software, is made aware that it is proprietary to the Supplier and that it can only be used in accordance with this Agreement;
 - 13.2.2. has right to permit the third parties, with which the Customer have concluded the cooperation agreement on implementation of the Global Project (including but not limited to national implementing bodies of Rail Baltica Global Project: "Eiropas Dzelzceļa līnijas" SIA, "Rail Baltic Estonia" OÜ, Estonian Technical Regulatory, "Lietuvos geležinkeliai" AB and "Rail Baltica statyba" UAB, beneficiaries of the Rail Baltica Global Project: Ministry of Transport of the Republic of Latvia, The Ministry of Economic Affairs and Communications of the Republic of Estonia and Ministry of Transport and Communications of the Republic of Lithuania and designers of detail technical designs of the railway line for the Rail Baltica Global Project), to have access to the Software without the prior written consent of the Supplier, provided they have a valid Passport and/or Visa assigned to such potential users;
- 13.3. The Supplier ensures that the intellectual property rights to the Software are duly owned (or licensed, or assigned, or held on any other valid legal basis) by the Supplier, and the use of the Software by the Customer in the way described in this Agreement will not harm any third party intellectual property rights.
- 13.4. The supplier shall provide an indemnity with regards to claims by third parties that supplier's software breaches their intellectual property rights, solely under the terms of its license agreement, as included in annex 2 and annex 4 hereto.

14. RESPONSIBILITY

- 14.1. For violation of any material terms or deadlines provided in the Agreement, the violation of which was not due wholly or partially to the Customer's action or inaction, the Supplier pays a contractual penalty to the Customer in the amount of EUR 5 000 on case by case basis. The cumulative amount of any and all penalties payable by the Supplier to the Customer under this Agreement shall not exceed 10% (ten percent) of the total project fee stipulated in the Agreement.
- 14.2. The payment of the contractual penalty does not release the Supplier from the performance of the contractual obligations.

15. DURATION AND TERMINATION

- 15.1. This Agreement enters into force on the day of its signing by both Parties and remains in force until 16 October 2024.
- 15.2. Parties may terminate this Agreement by submitting a written notice to the other Party: the Customer - at least 3 months in advance, the Supplier – at least 6 months in advance.
- 15.3. The Customer may choose not to use data storage of the Supplier, by submitting a written notice to the Supplier at least 3 months in advance (the **Partial Termination**). The Partial Termination does not affect the license fee for the use of Software.
- 15.4. Any Party may terminate this Agreement by submitting a written notice to the other Party at least 30 (thirty) days in advance:
 - 15.4.1. if the other Party commits a material breach of any of the terms of this Agreement and that breach (if capable of remedy) is not remedied within 30 (thirty) days of notice being given by the suffering Party requiring the remedy;
 - 15.4.2. if liquidation, bankruptcy, insolvency or legal protection proceedings have been initiated against the other Party or if the other Party itself has filed for liquidation, bankruptcy, insolvency or legal protection proceedings.
- 15.5. The Customer may terminate this Agreement with immediate effect by submitting a relevant written notice to the Supplier:
 - 15.5.1. if the Supplier or the Sub-Contractor fails to meet any requirements set out for the data processing within the European Union, in the Agreement, or in any applicable law;
 - 15.5.2. if by the third party's decision the Connecting Europe Facility (CEF) co-financing of the Agreement becomes unavailable to the Customer fully or partly;
 - 15.5.3. if international or national sanctions, or substantial sanctions by a Member State of the European Union or the North Atlantic Treaty Organization affecting the financial and capital market interests have been imposed on the Supplier;
 - 15.5.4. In the cases specifically indicated in Section 64 of the Public Procurement Law of the Republic of Latvia.
- 15.6. In the case of unilateral termination or Partial Termination from the Customer's side, the Customer will pay the Supplier the fees in respect of the Products provided under this Agreement up to the date of the notification on the termination of this Agreement, and the Customer is not obliged to pay contractual or any other penalty, damages or compensation to the Supplier.
- 15.7. The Supplier must ensure that in case if international or national sanctions or substantial sanctions by a Member State of the European Union or the North Atlantic Treaty Organization affecting the financial and capital market interests are applied on the Sub-Contractor, the agreement between the Supplier and the Sub-contractor must be terminated with the immediate effect.
- 15.8. Within 45 days after the termination of the Agreement, the Customer will pay the Supplier for all Products provided by the Supplier up to the date of termination, provided that there are no obstacles to the access and transfer of data as described in Section 15.11 and 15.12 below.

- 15.9. Following the termination or the Partial Termination of this Agreement due to any reason and upon a written request by Customer, the Supplier must immediately return the Customer's data in one of the ways agreed by the Parties:
- 15.9.1. The Supplier ensures the transfer of data sets from its Software, cloud storage, and any Sub-Contractors storage to the Customer within 6 months after the termination of the Agreement; for the avoidance of doubt, the data must be transferred as soon as practically possible, but in any event not later than within 6 months after the termination;
 - 15.9.2. If any of the Parties submits a notification to terminate the Agreement with a 3-6 months prior termination notice, the hand-over of the datasets has to be conducted on the date of the termination of the Agreement.
- 15.10. The Supplier ensures the data extraction and transfer from the Software and cloud storage, as well as assistance to the Customer, as far as necessary to ensure safe, efficient and interoperable data transfer from the Software to the Customer without any additional cost.

16. AMENDMENTS

- 16.1. Any amendments to the Agreement may be made in compliance with Section 61 of the Public Procurement Law.
- 16.2. The Customer may request to increase the number of users to whom the Software is licensed as specified in Section 8.2.
- 16.3. Any technical solutions proposed by the Customer in the Annexes to the Agreement must not be changed without a direct documented consent of the Customer.
- 16.4. Any amendments and changes to the Agreement are valid only if they are in writing and signed by the Parties.
- 16.5. The correspondence between the Parties prior to the concluding the Agreement (Annex 10) is an integral and inseparable part of the Agreement.

17. PERSONAL DATA PROTECTION

- 17.1. The Supplier processes personal data on behalf of the Customer in accordance with the Agreement.
- 17.2. The Customer is the data controller, and the Supplier is the data processor, therefore the parties sign a Personal Data Processing Agreement as attached in Annex 3 of the Agreement on the day of the signing of this Agreement. The Supplier is obliged to follow data processing rules specified in Annex 3 of the Agreement.

18. CONFIDENTIALITY

- 18.1. The Supplier is prohibited to disclose to a third party any information related to this Agreement, its performance (*inter alia* disputes and their settlement), or any other information relating to the business or other activities of the Customer, and any information on the intellectual property, which has come to the knowledge of the Supplier or which it has otherwise obtained (*inter alia* from customers or cooperation partners) in the course of negotiation or performing of this Agreement (even accidentally), unless the information:

- 18.1.1. was publicly known at the time of its disclosure or was already known to the Supplier before such information was provided by the Customer; or
- 18.1.2. subsequently has lawfully become into the possession of the Supplier from a third party.
- 18.2. The provisions of this section remain in force during the validity of the Agreement and for an unlimited period after the expiry of the Agreement.

19. VISIBILITY REQUIREMENTS

- 19.1. During performance of the Agreement, the Supplier undertakes to comply with all of the following requirements:
 - 19.1.1. any report, brochure, document or information related to the activities conducted by the Supplier or any other person on behalf of the Supplier, or which the Supplier makes publicly available will include each of the following:
 - (a) a funding statement which indicates that the Agreement is financed from CEF funds substantially in the following form: "Co-financed by the Connecting Europe Facility of the European Union";
 - (b) with respect to printed materials, a disclaimer releasing the European Union from liability with respect to any contents of any distributed materials substantially in the form as follows: "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". The disclaimer in all official languages of the European Union can be viewed on the website <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>; and
 - (c) the flag of the Council of Europe and the European Union.
- 19.2. the requirements set forth in Section 19.1.1(a) and 19.1.1(c) of this Agreement can be complied with by means of utilizing the following logo:



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

- 19.3. in the event the Supplier decides to utilize the above logo, the Supplier will ensure that the individual elements forming part of the logo are not separated (the logo will not be utilized as a single unit) and sufficient free space is ensured around the logo; and
- 19.4. in order to comply with the latest applicable visibility requirements established by the European Union, the Supplier must regularly monitor changes to visibility requirements; as of the Effective Date, the visibility requirements are available for review on the webpage <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>.

20. FORCE MAJEURE

- 20.1. If an extraordinary situation arises that is beyond the control of the Parties and which could not be reasonably predicted by the relevant Party, which makes the fulfilment of the obligations pursuant to the Agreement absolutely impossible, this situation is deemed to be *force majeure*, such as war, strike, earthquake, flood, lockout, embargo, governmental acts or orders or restrictions, or any other reason where failure to perform is beyond the reasonable control and is not caused by the negligence or intentional conduct or misconduct of the nonperforming Party.
- 20.2. In case of force majeure the affected Party must notify the other Party without any undue delay and provide proof of the event occurred.
- 20.3. The affected Party's obligations will be suspended as long as the extraordinary force majeure situation lasts. The other Party's counter-performances will be suspended during the same period of time.

21. WARRANTIES AND DISCLAIMERS

- 21.1. The Supplier warrants that the Products will be provided in conformity with industry standards and the Technical Proposal (Annex 7).
- 21.2. The Supplier declares that the Products shall operate in substantial conformance with the specifications laid out in Supplier's Technical proposal (Annex 7).

22. SEVERABILITY

- 22.1. If any provision of this Agreement is found to be illegal, invalid or unenforceable under applicable law effective during the term of this Agreement, the remaining provisions of this Agreement will nevertheless remain binding. The Parties will negotiate in a good faith to replace the invalid provision with a provision with the economic effect as close as possible to that of the illegal, invalid or unenforceable provisions.
- 22.2. None of the contracting Parties may transfer its rights and obligations to a third party without a prior written approval of the other Party, with the exception of the cloud storage provider approved by the Customer in advance.
- 22.3. The Agreement is drawn up on one hundred forty nine (149) pages in 2 copies, one for each Party. Both copies have equal legal force.

23. GOVERNING LAW AND DISPUTE RESOLUTION

- 23.1. This Agreement is governed by the laws of the Republic of Latvia.
- 23.2. Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, will be settled by courts of the Republic of Latvia.

24. NOTICES

- 24.1. All notices and communications under this Agreement must be addressed as set out below:

24.1.1. If to the Customer: Contact person: BIM Manager Raitis Bušmanis; Kr.Valdemara 8-7, Riga, Latvia, LV-3101; Phone No.: +371 2201 1063; E-mail: raitis.busmanis@railbaltica.org.

24.1.2. If to the Supplier: Contact person: Miroslaw Pawelec; Address: Bentley Systems Polska sp. z o.o. Ul. Nowogrodzka 68, 02-014 Warszawa, Tel +48 22 50 40 750; Fax +48 22 50 40 749; Phone No.: +48693 807 107, E-mail: miroslaw.pawelec@bentley.com.

25. ANNEXES

25.1. Annex 1 - Rail Baltica BIM CDE System Technical Specification.

25.2. Annex 2 - End-user License Agreement.

25.3. Annex 3 - Personal Data Processing Agreement.

25.4. Annex 4 – SELECT Program Agreement.

25.5. Annex 5 - Service Level Agreement.

25.6. Annex 6 – Supplier’s Declaration.

25.7. Annex 7 – Technical proposal.

25.8. Annex 8 - Financial proposal.

25.9. Annex 9 – Subcontractors and key personnel involved in the execution of the Agreement.

25.10. Annex 10 – Correspondence.

26. PAYMENT DETAILS

26.1. The Customer:

RB Rail AS

Luminor Bank AS

Account No: LV73NDEA0000084270995

SWIFT code: NDEALV2X

VAT No.: LV40103845025

26.2. The Supplier:

Bentley Systems International Limited

Bank: Deutsche Bank A.G., Amsterdam, Netherlands

Account No.: NL75 DEUT 0265 1376 75

SWIFT code: DEUTNL2A

VAT No.: IE9729353D

27. SIGNATURES

On behalf the Customer

Timo Riihimäki

Chairman of the Management Board

On behalf of the Supplier

Ignas Degutis

Management Board Member