

# REGULATIONS

FOR THE PROCUREMENT

**“ON-DEMAND ACCOUNTING ADVISORY SERVICES”**

(IDENTIFICATION NO RBR 2020/7)



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

Riga  
2020

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## 1. ABBREVIATIONS AND TERMS

- 1.1. **Common procurement vocabulary (CPV)** – a nomenclature approved by the European Union, which is applied in public procurement procedures;
- 1.2. **Contract** - signed agreement between Contracting authority and a Contractor to provide services defined in this agreement;
- 1.3. **Contracting authority** (also, the Contracting entity) - the joint stock company RB Rail AS, registration number 40103845025, legal address: Kr. Valdemāra iela 8-7, Riga, LV-1010, Latvia;
- 1.4. **Contractor** - service provider awarded the right to enter into the Contract in Procurement to provide services in accordance with requirements stipulated in Regulations and Contract;
- 1.5. **Identification number** – designation, which includes the abbreviation of the name of the Contracting authority (the first capital letters), the relevant year and the procurement sequence number in ascending order (RBR 2020/7);
- 1.6. **Procurement** - procurement "On-demand accounting advisory services" (identification number: RBR 2020/7) in which all interested Suppliers are entitled to submit their Proposals;
- 1.7. **Procurement commission** – commission which composition has been established by the joint stock company RB Rail AS, order No 1.9-5 dated 24 March 2020, issued by the Management Board of joint stock company RB Rail AS;
- 1.8. **Proposal** - documentation package the Tenderer submits to participate in the Procurement;
- 1.9. **Regulations** – regulations of the Procurement "On-demand accounting advisory services" (identification number: RBR 2020/7), as well as all the enclosed annexes;
- 1.10. **Supplier** – a natural person or a legal person, a group or association of such persons in any combination thereof, which offers to perform works, supply products or provide services accordingly;
- 1.11. **Tenderer** – a Supplier which has submitted a Proposal.

## 2. GENERAL INFORMATION

- 2.1. The Procurement is co-financed by the Contracting authority and Connecting Europe Facility (CEF).
- 2.2. The Tenderer shall submit a Proposal for the entire volume of the Procurement.
- 2.3. The Tenderer is not permitted to submit variants of the Proposal. If variants of the Proposal will be submitted, the Proposal will not be reviewed.
- 2.4. Procurement is organised in accordance with Section 9 of the Public Procurement Law of the Republic of Latvia (hereinafter – Public Procurement Law) in effect on the date of publishing the contract notice.
- 2.5. Procurement documentation is published using E-Tenders system which is subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EKEIS/Supplier>).
- 2.6. The Regulations is freely available in Contracting authority's profile in the E-Tenders system on webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/35866> and on the webpage of the Contracting authority <http://railbaltica.org/tenders/>.
- 2.7. Answers to Suppliers' questions shall be published on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/35866> and on the Contracting authority's webpage <http://railbaltica.org/tenders/>. It is the Supplier's responsibility to constantly follow the information published on the webpages and to take it into consideration in preparation of its Proposal.
- 2.8. Contact person of the Contracting authority for Procurement is Procurement Specialist - Lawyer Vineta Ezergaile, telephone: +371 29352018, e-mail address: [vineta.ezergaile@railbaltica.org](mailto:vineta.ezergaile@railbaltica.org).
- 2.9. The exchange of information between the Procurement commission and the Supplier shall be in writing (by sending documents electronically to e-mail or using E-Tenders system) in English (if information is submitted in Latvian, it shall be accompanied by a translation into English).
- 2.10. If the Supplier does not have access to the E-Tenders system, the Supplier can follow the guidance for obtaining access to the system available on the Contracting authority's website at <http://www.railbaltica.org/procurement/e-procurement-system/>.

- 2.11. The Supplier can request additional information regarding the Regulations. Additional information can be requested in writing through the E-Tendering system or (only in case the Supplier does not have access to the system) by sending it to the Procurement commission electronically to the e-mail (see Section 2.7 of the Regulations). Any additional information must be requested in a timely fashion, so that the Procurement commission can reply on time - no later than 4 (four) days prior to the deadline of the Proposal submission. The Procurement commission shall provide response within 3 (three) business days from the day of receipt of the request from the Supplier.
- 2.12. The Supplier covers all expenses, which are related to the preparation of the Proposal and its submission to the Contracting authority. Under no circumstances Contracting authority will be liable for compensation of any costs and damages related to the preparation and submission of the Proposal or the Supplier's participation in the Procurement exercise.

### **3. THE RIGHTS OF THE PROCUREMENT COMMISSION**

- 3.1. The Procurement commission has the right to demand at any stage of the Procurement 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.
- 3.2. 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 presents to Procurement commission original documents.
- 3.3. During the Proposal evaluation, the Procurement commission has the right to request Tenderer to clarify the information included in its Proposal.
- 3.4. If the Procurement commission determines that the information about the Tenderer or persons upon whose capacity the Tenderer is relying that is included in submitted documents is unclear or incomplete, it demands that the Tenderer or a competent institution clarifies the information included in the Proposal. The deadline for submission of the necessary information is determined in proportion to the time which is required to prepare and submit such information. If the Procurement commission has requested to clarify 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. The Procurement commission has the right to reject all Proposals which are found not to comply with the requirements of the Procurement documentation.

### **4. THE OBLIGATIONS OF THE PROCUREMENT COMMISSION**

- 4.1. The Procurement commission ensures the documentation of the Procurement process.
- 4.2. The Procurement commission ensures free and direct electronic access to the Procurement documents in Contracting authority's profile on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/35866> and on the webpage of the Contracting authority <http://railbaltica.org/tenders/>.
- 4.3. If an additional information has been requested according to Section 2.11 of the Regulations, Contracting authority sends this information to the Supplier who asked the question, publishes this information in Contracting authority's profile on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/35866> and on its webpage <http://railbaltica.org/tenders/> where Procurement documents are available, indicating the question asked.
- 4.4. The exchange and storage of information shall be 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. From the day of submission of Proposals until the opening of the Proposals the Contracting authority does not disclose any information regarding the existence of other Proposals. During the time of Proposal evaluation, the Contracting authority does not disclose any information regarding the evaluation process until the announcement of the results.
- 4.5. The Procurement commission evaluates the Tenderers and their Proposals based on the Public Procurement Law, Procurement documents, as well as other applicable regulatory enactments.



## 5. THE RIGHTS OF THE TENDERER

- 5.1. The Tenderer has the right 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/>).
- 5.2. If the Contracting authority gets the necessary information about the Tenderer directly from a competent institution, through data bases or other sources and the Tenderer's submitted information differs from information obtained by the Contracting authority, the Tenderer in question has the right to submit evidence to prove the correctness of the information the Tenderer has submitted, if the information obtained by the Contracting authority does not conform to the factual situation.
- 5.3. 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 an application to the Administrative court according to the procedure stipulated in the Section 9, Paragraph 23 of the Public Procurement Law and Administrative Procedure Law of the Republic of Latvia regarding the Tenderer selection requirements, Technical specification or other requirements relating to Procurement, or relating to the activities by the Contracting authority or the Procurement commission during the Procurement.

## 6. SUBJECT-MATTER OF THE PROCUREMENT

- 6.1. The subject-matter of the Procurement is on-demand accounting advisory services in accordance with Annex No 1 "Technical specification" (hereinafter – Services).
- 6.2. The applicable CPV codes of subject-matter are 79412000-5 (Financial management consultancy services) and 79211000-6 (Accounting services).
- 6.3. Total contract price is 40 000,00 EUR (forty thousand euros) excl. Value Added Tax (hereinafter – VAT).
- 6.4. The delivery of the Services will take place in Estonia, Latvia and Lithuania.
- 6.5. Period of provision of Services is 24 (twenty-four) months or until the total contract price is reached whichever occurs earlier.

## 7. TENDERER

- 7.1. The Proposal can be submitted by:
  - 7.1.1. A Supplier who is a legal or natural person (hereinafter – the Tenderer) which offers on the market to perform works, supply products or provide services accordingly and who complies with the selection criteria for Tenderers;
  - 7.1.2. A group of Suppliers (hereinafter also – the Tenderer, partnership) which offer on the market to perform works, supply products or provide services accordingly and who complies with the selection criteria for Tenderers:
    - 7.1.2.1. A group of Suppliers who have formed a partnership for Procurement. In this case all the members of the partnership shall be listed in Annex No 2 "Application for participating in the Procurement". 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;
    - 7.1.2.2. An established and registered partnership (a general partnership or a limited partnership within the meaning of Latvian Commercial Law, Chapter IX and X) which complies with the selection criteria for Tenderers.

## 8. SELECTION CRITERIA FOR TENDERERS

### 8.1. Exclusion grounds

The Contracting authority shall exclude the Tenderer from further participation in the Procurement in any of the following circumstances:

No	Requirement	Documents to be submitted (unless documents are specifically requested by the Procurement commission, no obligation to submit any)
8.1.1.	<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 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, exceeding 150 euro in total in any of the countries.</p>	<ul style="list-style-type: none"> <li>- For a Tenderer which is registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases.</li> <li>- For a Tenderer which is registered or residing outside of Latvia the Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence.</li> </ul>
8.1.2.	<p>Tenderer's insolvency proceedings have been announced (except where a set of measures aimed at restoring the solvency of the debtor is applied in the insolvency proceedings), the Tenderer's economic activity has been suspended or the Tenderer is liquidated.</p>	<ul style="list-style-type: none"> <li>- For a Tenderer which is registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases.</li> <li>- For a Tenderer which is registered or residing outside of Latvia, the Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence.</li> </ul>
8.1.3.	<p>In case 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/resolve this situation by measures that cause less restrictions on Tenderers (such a Tenderer shall be excluded from the Procurement). A person who drafted the Procurement 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 which are legal persons and if such relationship with the legal person terminated within the last 24 (twenty-four) months;</li> <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>- or 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 documents (Contracting authority's</p>	<p>No obligation to submit documents, unless specifically requested by the Procurement commission.</p>

No	Requirement	Documents to be submitted (unless documents are specifically requested by the Procurement commission, no obligation to submit any)
	official or employee), Procurement commission member or expert is related to a member of a partnership in any of the above-mentioned ways.	
8.1.4.	The Tenderer is a legal person or association of persons registered in an offshore <sup>1</sup> .	<ul style="list-style-type: none"> <li>- For a Tenderer which is registered in Latvia, the Contracting authority shall verify the information itself by using the information system laid down by the Cabinet of Ministers, obtaining information from the Enterprise register.</li> <li>- For a Tenderer which is registered outside of Latvia, the Tenderer shall submit a copy of a valid registration certificate or a similar document issued by a competent authority, wherefrom at least the fact of registration country of the Tenderer can be determined.</li> </ul>
8.1.5.	<p>International or national sanctions, or sanctions of a Member State of the European Union or North Atlantic Treaty Organisation affecting the interests of the financial and capital market has been imposed to the</p> <p>a) Tenderer or a member of its board or council, its beneficial owner<sup>2</sup>, a person having the right of representation or proctor, or a person who is authorised to represent the Tenderer in activities related to a branch, or</p> <p>b) member of a partnership, or member of the board or council, its beneficial owner, a person having the right of representation or proctor, if the Tenderer is a partnership</p> <p>and such sanctions can affect the execution of the Contract.</p>	No obligation to submit documents, unless specifically requested by the Procurement commission.

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

No	Requirement	Documents to be submitted
8.2.1.	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	<ul style="list-style-type: none"> <li>- For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, which is a legal person registered in Latvia, the Contracting authority shall verify the</li> </ul>

<sup>1</sup> **Offshore:** low tax or tax-free country or territory in accordance with Corporate income tax law of the Republic of Latvia except Member States of EEA (European Economic Area) or its territories, Member States of the World Trade Organization Agreement on State Treaties or territories and such countries and territories with which European Union and Republic of Latvia has international agreements for open market in public procurement area.

<sup>2</sup> **Beneficial owner:** a natural person who is the owner of the customer - legal person - or who controls the customer, or on whose behalf, for whose benefit or in whose interests business relationship is being established or an individual transaction is being executed, and it is at least:

a) regarding legal persons - a natural person who owns, in the form of direct or indirect shareholding, more than 25 per cent of the capital shares or voting stock of the legal person or who directly or indirectly controls it;

b) regarding legal arrangements - a natural person who owns or in whose interests a legal arrangement has been established or operates, or who directly or indirectly exercises control over it, including who is the founder, proxy or supervisor (manager) of such legal arrangement.

No	Requirement	Documents to be submitted
	residence, if the legislation of the respective country requires registration of natural or legal persons.	<p>information itself in publicly available databases.</p> <ul style="list-style-type: none"> <li>- For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, which is a natural person – a copy of an identification card or passport.</li> <li>- For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, 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 Proposal is submitted by a partnership, the Proposal shall include an agreement (or letter of intent to enter into agreement) signed by all members on the participation in the Procurement which lists responsibilities of each and every partnership members and which authorizes 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. The Tenderer additionally indicates (in this document) the member of the partnership on whose capacity it relies to certify its financial and economic performance and who will be financially and economically responsible for the fulfilment of the Contract.</li> <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 or person on whose capacity the Tenderer relies, 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 or a person on whose capacity the Tenderer is relying (powers of attorney, authorization agreements etc.) must be included.</li> </ul>
8.2.2.	The representative of the Tenderer, or a member of a partnership, or a person on whose capacity 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 capacity a Tenderer relies, who signs the Proposal. For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, which is a legal person 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 capacity a</li> </ul>

No	Requirement	Documents to be submitted
		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.

### 8.3. Technical and professional ability

No	Requirement	Documents to be submitted
8.3.1.	In the past 3 (three) years (2017, 2018 and 2019) until the submission date of the Proposal the Tenderer has provided IFRS <sup>3</sup> accounting advisory services to at least 3 (three) clients, who's annual net turnover at the moment of provision of IFRS accounting advisory services was equal or higher than 1 000 000,00 EUR (one million euros).	Filled and signed Annex No 3 “Description of the Tenderer's experience”, where the Tenderer's experience is clearly specified.
8.3.2.	In the past 3 (three) years (2017, 2018 and 2019) until the submission date of the Proposal the Tenderer has provided accounting advisory services under local accounting law to at least 1 (one) client from each of the Baltic States (Latvia, Lithuania, Estonia), who's annual net turnover at the moment of provision of accounting advisory services was equal or higher than 1 000 000,00 EUR (one million euros).	Filled and signed Annex No 3 “Description of the Tenderer's experience”, where the Tenderer's experience is clearly specified.
8.3.3.	The impartiality and neutrality of the Tenderer or any of involved experts will not be jeopardised during the provision of accounting advisory services and the Tenderer or any of involved experts will not be in a conflict of interest when providing the services.	No obligation to submit documents, unless specifically requested by the Procurement commission.

8.4. Information provided in the Proposal to prove the compliance with above-mentioned requirements for Technical and professional ability (Section 8.3 of the Regulations) shall be clear and understandable without any additional analysis or external proof of the submitted information. The Contracting authority shall not be obliged to use additional sources of information to decide regarding Tenderer's compliance with the qualification requirements. The Tenderer shall remain fully responsible for the provision of sufficiently detailed information in the Proposal required to confirm clearly the compliance with qualification requirements set in the Regulations.

8.5. 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 particular notices and documents. 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 submission of notices and documents, if the issuer of the notice or document has not set shorter period of validity.

8.6. If the documents with which a Tenderer registered or permanently residing abroad can certify its compliance with the requirements of Section 8.1 of the Regulations 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 8.1 of the Regulations 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). Regarding all documents submitted based on an oath given under law (e.g. sworn-statements, declarations on oath etc.), the Tenderer must provide (indicate) legal

<sup>3</sup> International Financial Reporting Standards.

grounds to law or enactment in accordance with such statements or declarations on oath have been given.

## 9. RELIANCE ON THE CAPACITY OF OTHER PERSONS

- 9.1. For the fulfilment of the Contract, to comply with the selection requirements for the Tenderers relating to the economic and financial standing and technical and professional capacity, the Tenderer may rely on the capacity of other persons, regardless of the legal nature of their mutual relationship. In this case:
  - 9.1.1. The Tenderer indicates in the Proposal all persons on whose capacity it relies by filling in the table which is attached as Annex No 5 "A list of other entities on whose capacity Tenderer relies" 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.
  - 9.1.2. Documents on cooperation and passing of resources must 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 capacity the Tenderer relies.
  - 9.1.3. The Contracting authority shall require joint and several liabilities for the execution of the Contract between the:
    - 9.1.3.1. Tenderer and a person on whose capacity the Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract;
    - 9.1.3.2. Each member of the partnership (if the Tenderer is a partnership) on whose capacity the Tenderer is relying and who will be financially and economically responsible for fulfilment of the Contract.
- 9.2. The Contracting authority shall evaluate the person on whose capacity the Tenderer to whom the rights to conclude the Contract should be assigned is relying according to Section 8.1.1 - 8.1.3 of the Regulations.

## 10. FINANCIAL PROPOSAL

- 10.1. The Financial proposal shall be submitted as Annex No 6 "Financial proposal".
- 10.2. The proposed price (blended hourly rate) shall include all taxes, fees and payments, and all costs related to the fulfilment of the specific services, that can be reasonably estimated, except VAT, including but not limited to:
  - 10.2.1. cost of business trips, time of consultants and daily allowance,
  - 10.2.2. field research,
  - 10.2.3. purchase of external materials and researches,
  - 10.2.4. purchase of external experts if applicable.
- 10.3. Tenderer shall include any travel expenses (if any arise) in proposed blended hourly rate. Contracting authority will not additionally reimburse any travel expenses incurred by Tenderer during the provision of Services.
- 10.4. The blended hourly rate shall be specified in EUR.
- 10.5. The blended hourly rate must be calculated and indicated with an accuracy of 2 (two) decimal places after comma. If more than 2 (two) decimal places after comma will be indicated, then only the first two decimal places will be considered.



## 11. CONTENTS AND FORM OF THE PROPOSAL

- 11.1. The Proposal must be prepared in an electronic form using the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/35866>. Proposal must be prepared in English or Latvian (if submitted in Latvian, translation in English of the Proposal must be provided together with the Proposal).
- 11.2. Proposal must be submitted electronically on E-Tenders subsystem of the Electronic Procurement System in accordance with the following options for the Tenderer:
  - 11.2.1. by using the available tools of E-Tenders subsystem, filling the attached forms of the E-Tenders subsystem for Procurement;
  - 11.2.2. 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);
  - 11.2.3. by encrypting electronically prepared Proposal outside of E-Tenders subsystem with data protection tools provided by third parties, and protection with electronic key and password (in this situation, 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 by the Contracting authority).
- 11.3. During preparation of the Proposal, Tenderer shall respect the following requirements:
  - 11.3.1. Each document mentioned in Section 11.4 of the Regulations must be filled separately, each in a separate electronic document in line with forms attached to Procurement on Contracting authority's profile in E-Tenders subsystem (<https://www.eis.gov.lv/EKEIS/Supplier/Procurement/35866>) in a Microsoft Office 2010 (or later) format and attached to the Procurement;
  - 11.3.2. Upon submission, the Tenderer signs the Proposal with a secure electronic signature and a time seal or with electronic signature provided by Electronic Procurement System. The Tenderer can use a certified electronic signature<sup>4</sup> and valid time seal and sign Application form, Description of the Tenderer's experience, Technical proposal, Financial proposal and other documents separately. The Proposal (its parts, if signed separately) is signed by an authorised person, including its authorisation document (e.g. power of attorney) *expressis verbis* stating the authorisations to sign, submit and otherwise manage the documents.
- 11.4. Documents to be included in the Proposal:
  - 11.4.1. Application for participation in the Procurement in accordance with Annex No 2;
  - 11.4.2. Financial proposal in accordance with Annex No 6 and Section 10 of the Regulations;
  - 11.4.3. Information and documents confirming compliance of the Tenderer with the selection criteria for the Tenderers (set in Section 8 of the Regulations);
  - 11.4.4. If Tenderer is relying on other entities capacity - information and documents relating to other entities on whose capacity the Tenderer is relying (in accordance with Annex No 5);
  - 11.4.5. Document (a certified copy of certificate or any other document proving relevant qualification) confirming compliance of the Tenderer with the evaluation criteria for the Tenderers set in Section 16.2.2 of the Regulations (if Tenderer propose compliance with evaluation criteria);
  - 11.4.6. Filled in Annex No 4 "Description of the Expert's experience" and signed by the relevant Key expert confirming compliance of the Tenderer with the evaluation criteria for the Tenderers set in Section 16.2.3 and 16.2.4 of the Regulations (if Tenderer propose compliance with evaluation criteria).
- 11.5. 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 Tenderer shall submit only such original documents which have legal force. For the document to gain legal force it must be issued and formatted in accordance with the Law on Legal Force of Documents of the Republic of Latvia (<https://likumi.lv/ta/en/id/210205->

<sup>4</sup> Issued by organisation, which is included in the Trusted list according to the Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

[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 of the Republic of Latvia (<https://likumi.lv/ta/en/en/id/155411-document-legalisation-law>). Public documents issued abroad can be self-approved by the Tenderer, if it is applicable by the legislation of the respective country. When submitting the Proposal, the Tenderer has the right to certify the correctness of all submitted documents' derivatives and translations with one certification.

- 11.6. The Proposal must be signed by a person who is legally representing the Tenderer or is authorized to represent the Tenderer in the Procurement.

## 12. ENCRYPTION OF THE PROPOSAL INFORMATION

- 12.1. E-Tenders system which is a subsystem of the Electronic Procurement System ensures first level encryption of the information provided in the Proposal documents.
- 12.2. If the Tenderer applied additional encryption to the information in the Proposal (according to Section 11.2.3 of the Regulations), Tenderer must provide the Procurement commission with the electronic key with the password to unlock the information not later than in 15 (fifteen) minutes after the deadline of the Proposal submission.

## 13. SUBMISSION OF A PROPOSAL

- 13.1. The Proposal (documents referred to in the Section 11.4 of the Regulations) shall be submitted electronically using the E-Tenders system available at <https://www.eis.gov.lv/EKES/Supplier/Procurement/35866> by:

**27 April 2020 till 15:00 o'clock.**

- 13.2. The Tenderer may recall or amend its submitted Proposal before the expiry of the deadline for the submission of Proposals by using the E-Tenders system.
- 13.3. Only Proposals submitted through E-Tenders system will be accepted and evaluated for participation in the Procurement. 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.

## 14. VERIFICATION OF PROPOSALS FOR COMPLIANCE

- 14.1. The Procurement commission shall proceed with the verification of compliance of Proposals received.
- 14.2. The Procurement commission verifies whether the submitted Proposals comply with the requirements stipulated in Section 11 of the Regulations and whether all required information and documents is submitted and selects for further evaluation the compliant Proposals.
- 14.3. The Procurement commission opens and evaluates the Proposals in a closed session. Procurement commission is entitled to perform evaluation of the compliance only for the Tenderer to whom the rights to conclude the Contract may be assigned.

## 15. VERIFICATION OF FINANCIAL PROPOSALS

- 15.1. The Procurement commission verifies whether Tenderers have completed Annex No 6 "Financial proposal" in accordance with the requirements.
- 15.2. 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.
- 15.3. The Procurement commission informs the Tenderer whose arithmetical errors have been corrected about the correction of arithmetical errors and the corrected Financial proposal.
- 15.4. When evaluating the Financial proposal, the Procurement commission takes corrections into account.
- 15.5. 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 to ascertain the objectivity of the Financial proposal and whether an abnormally low Proposal has been submitted.



- 15.6. The Procurement commission further evaluates the compliant Proposals which have not been declared as abnormally low Proposals.

## 16. CONTRACT AWARD CRITERIA

- 16.1. The Proposal selection criterion is the most economically advantageous proposal according to the evaluation methodology described in this Section below.
- 16.2. The economically most advantageous proposal shall be Proposal which will receive the highest sum of scores for the following criteria<sup>5</sup>:

No	Evaluation criteria	Points per unit	Maximum possible score
1.	Financial proposal: On-demand accounting advisory services (blended hourly rate)	58	58
2.	Key expert has the Association of Chartered Certified Accountants (ACCA) qualification or equivalent international qualification for certified accountants:		14
	Key expert I	7	
	Key expert II	7	
3.	In the past 3 (three) years (2017, 2018 and 2019) until the submission date of the Proposal Key expert has gained experience in providing IFRS accounting advisory services to at least 3 (three) clients:		14
	Key expert I	7	
	Key expert II	7	
4.	In the past 3 (three) years (2017, 2018 and 2019) until the submission date of the Proposal the Key expert has gained experience in providing financial reporting services or accounting advice services under local accounting law of any of the Baltic States (Latvia, Lithuania, Estonia): 1) to at least 1 (one) client including case of reorganization (merging (acquisition or consolidation) or division (spin-off or divestiture)); and 2) to at least 1 (one) client with foreign branches.		14
	Key expert I	7	
	Key expert II	7	
Total:			100

- 16.3. Financial proposal shall receive points in accordance with the following formula:

$$points = \frac{\text{lowest proposed price from the compliant proposals}}{\text{Tenderer's proposed price}} \times 58$$

- 16.4. Qualification mentioned in Section 16.2.2 of the Regulations will be evaluated as follows:

<sup>5</sup> Tenderer for the provision of Services can propose six different Key experts or less.

- 16.4.1. If only one proposed Key expert has the ACCA qualification or equivalent international qualification for certified accountants, Proposal will receive 7 (seven) points;
- 16.4.2. If two proposed Key experts have the ACCA qualification or equivalent international qualification for certified accountants, Proposal will receive 14 (fourteen) points.
- 16.5. Qualification mentioned in Section 16.2.3 of the Regulations will be evaluated as it follows:
  - 16.5.1. If only one proposed Key expert in the past 3 (three) years (2017, 2018 and 2019) until the submission date of the Proposal has gained experience in providing IFRS accounting advisory services to at least 3 (three) clients, Proposal will receive 7 (seven) points;
  - 16.5.2. If two proposed Key experts in the past 3 (three) years (2017, 2018 and 2019) until the submission date of the Proposal have gained experience in providing IFRS accounting advisory services to at least 3 (three) clients, Proposal will receive 14 (fourteen) points.
- 16.6. Qualification mentioned in Section 16.2.4 of the Regulations will be evaluated as it follows:
  - 16.6.1. If only one proposed Key expert in the past 3 (three) years (2017, 2018 and 2019) until the submission date of the Proposal has gained experience in providing financial reporting services or accounting advice services under local accounting law of any of the Baltic States (Latvia, Lithuania, Estonia) to at least 1 (one) client including case of reorganization (merging (acquisition or consolidation) or division (spin-off or divestiture)) and to at least 1 (one) client with foreign branches, Proposal will receive 7 (seven) points;
  - 16.6.2. If two proposed Key experts in the past 3 (three) years (2017, 2018 and 2019) until the submission date of the Proposal have gained experience in providing financial reporting services or accounting advice services under local accounting law of any of the Baltic States (Latvia, Lithuania, Estonia) to at least 1 (one) client including case of reorganization (merging (acquisition or consolidation) or division (spin-off or divestiture)) and to at least 1 (one) client with foreign branches, Proposal will receive 14 (fourteen) points.
- 16.7. The Procurement commission shall obtain the final score for each Proposal by summing up points that particular Proposal obtained in accordance with the procedures set out in Section 16.3 – 16.6 of the Regulations. Contract shall be awarded to the Tenderer whose Proposal obtains the highest final score according to Section 16.3 – 16.6 of the Regulations.
- 16.8. In case several Proposals will obtain equal highest final score (points), Procurement commission will award the contract rights to the tenderer which has obtained highest score for the evaluation criteria "Financial proposal: On-demand accounting advisory services (blended hourly rate)". In case several Proposals will obtain equal score (points) for the evaluation criteria "Financial proposal: On-demand accounting advisory services (blended hourly rate)", Procurement commission will invite representatives of those Tenderers whose Proposals have equal score and will organize a draw. In situation, when representatives of Tenderers mentioned before chose to not be present at the draw, Procurement commission will carry out the draw without representatives of Tenderers present by inviting impartial participant from the Contracting authority.

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

- 17.1. Prior to making the decision about assigning rights to conclude the Contract, the Procurement commission performs a check regarding the existence of exclusion grounds for Tenderers, members of a partnership (if the Tenderer is a partnership) and persons on whose capacity the Tenderer is relying to certify its compliance with the requirements.
- 17.2. 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) or a person on whose capacity the Tenderer is relying to certify its compliance with the requirements, 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 (ten) days from the day of issuing or receiving information – for the submission of a statement evidencing absence of tax debt, including state mandatory insurance contributions debts, the total sum of which exceeds 150 euro, on the last day of Proposal submission or on the day when the decision regarding the possible assignment of rights to conclude a Contract was made.

- 17.3. If the Tenderer fails to submit required evidence about itself before the deadline, the Procurement commission excludes the Tenderer from participation in the Procurement.

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

- 18.1. 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 Regulations and chooses the Proposal in accordance with the contract award criteria as described in Section 16 of the Regulations.
- 18.2. Within 3 (three) business days from the date of decision about the Procurement results the Procurement commission informs all Tenderers about the decision made by sending the information by post or electronically (including through the E-Tenders system) and keeping the evidence of the date and means of sending the information. The Procurement commission announces the name of the successful Tenderer, indicating:
- 18.2.1. to the rejected Tenderer - the reasons for rejecting its Proposal;
  - 18.2.2. to the Tenderer who has submitted an eligible Proposal - the characterization of the successful Proposal and the relative advantages;
  - 18.2.3. the deadline by which the Tenderer may submit an application to the Administrative court regarding violations of the public procurement procedure.
- 18.3. If the Procurement is terminated, the Procurement commission within 3 (three) business days simultaneously informs all Tenderers about the date of decision, all the reasons because of which the Procurement is terminated and informs about the deadline within which a Tenderer may apply to the Administrative court regarding the violations of the public procurement procedure.
- 18.4. The Procurement commission when informing of the results has the right not to disclose specific/confidential information, if it may infringe upon public interests or if the Tenderer's legal commercial interests, or the conditions of competition would be violated.
- 18.5. The selected Tenderer upon receiving the specific notification from Procurement commission must:
- 18.5.1. within 5 (five) business days – to submit to the Contracting authority a copy of partnership agreement or notification regarding the establishment of the partnership, if required pursuant to requirements under Section 7.1.2.1 of the Regulations;
  - 18.5.2. within 10 (ten) days – to sign the Contract.
- 18.6. The Contract is concluded based on the Tenderer's Proposal and in accordance with Annex No 7 "Draft contract".
- 18.7. The Procurement commission has the right to choose the next most economically advantageous Proposal, if the Tenderer in the time stipulated by the Regulations:
- 18.7.1. refuses to conclude a partnership contract or establish the partnership in the cases and deadlines defined by the Regulations or in the cases and deadlines defined by the Regulations does not submit a copy of the partnership contract, or does not inform of the founding of a partnership company;
  - 18.7.2. refuses to conclude the Contract or does not submit signed Contract within the deadlines defined in the Regulations.
- 18.8. In any of such a case mentioned in Section 18.7 of the Regulations the Procurement commission is entitled to terminate this Procurement without selecting any Proposal or to select the next most economically advantageous Proposal. For either of these decisions a written decision must be made.
- 18.9. 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 or it does not comply with requirements set in the Section 18.5 of the Regulations, the Procurement commission decides to terminate the Procurement without selecting any Proposal.

**ANNEXES:**

1. Technical specification on 5 (five) pages;
2. Application for participation in the procurement on 2 (two) pages;
3. Description of the Tenderer's experience on 1 (one) page;
4. Description of the Expert's experience on 2 (two) pages;
5. A list of other entities on whose capacity Tenderer relies on 1 (one) page;
6. Financial proposal on 1 (one) page;
7. Draft contract on 14 (fourteen) pages.

**ANNEX NO 1: TECHNICAL SPECIFICATION**

**TECHNICAL SPECIFICATION FOR THE PROCUREMENT  
"ON-DEMAND ACCOUNTING ADVISORY SERVICES"  
(ID NO RBR 2020/7)**



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

Riga  
2020

## 1. INTRODUCTION TO RAIL BALTICA

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.

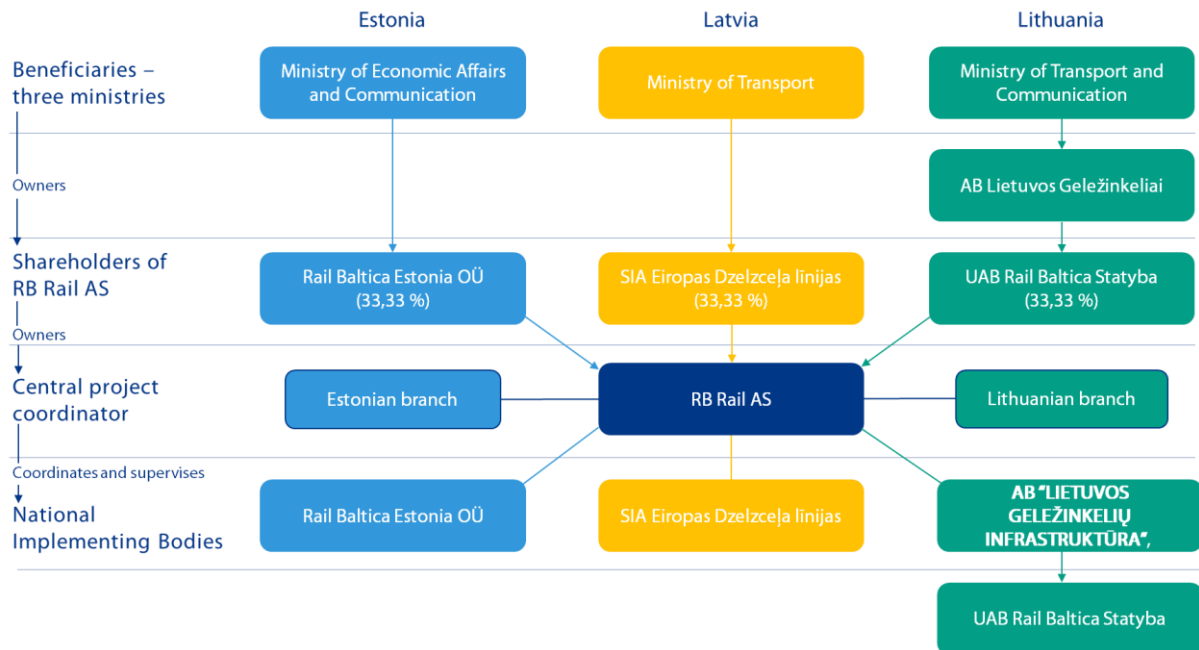
The ambitions of the Rail Baltica Global project (Global Project) are:

- 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 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 applications were successful and INEA grants are available to support the Global Project expenses.

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. FRAMEWORK OF ASSIGNMENT

The Contractor shall provide on-demand accounting advisory services related to operations of RB Rail AS in accordance with this Technical specification (hereinafter – Services) and Tenderers Financial proposal.

The scope of Services includes:

- Accounting treatment of specific transactions, including re-organisation, entered into by RB Rail AS under IFRS (International Financial Reporting Standards issued by the International Accounting Standards Board), as far as applicable in European Union;
- Accounting treatment of specific transactions, including re-organisation, entered into by RB Rail AS under accounting laws and regulations of Latvia, Estonia and Lithuania (hereinafter – local accounting laws);
- Advice on best practice accounting processes and set-up of IT systems such as, but not limited to, accounting for branches. At this moment RB Rail AS uses Microsoft Dynamics NAV 2017. Advisory services in relation to development of accounting software (assistance with defining IT development requirements from accounting perspective).

Examples of transactions may include but are not limited to lease contracts, grants provided by European Union or Baltic states, business combinations, etc. Services may comprise advice on accounting treatment of a particular transaction only under IFRS or only under local accounting laws, or under both IFRS and local accounting laws as the need may be.



Services should be delivered in English in written form, using MS Word, Power Point and Excel applications as appropriate and agreed for each assignment. References to relevant IFRS, as far as applicable in European Union, and accounting laws and regulations of Latvia, Estonia and Lithuania should be included where applicable.

### **3. SERVICE CONTRACT MANAGEMENT**

#### **3.1. Contractor's obligations**

- 3.1.1. 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 arising due to the correction of the unacceptable results shall be covered solely by the Contractor.
- 3.1.2. The Contractor shall ensure necessary effort, means, resources and personnel and request any additional information or documentation necessary for the successful provision of Services.
- 3.1.3. The Contractor is not allowed to change its experts during the execution of the Contract without prior written approval of the Contracting authority. The Contracting authority is allowed to grant an approval for such a change if the new expert meets all the same qualification and evaluation criteria as the expert to be substituted.
- 3.1.4. The Contractor shall make its own arrangements for office facilities, personal computers and other facilities of appropriate performance and security standard for Service provision.
- 3.1.5. The Contractor shall ensure that its team members (experts etc.) involved in Service provision are adequately supported and equipped. Costs for administration of service contract and office operation including telecommunication costs shall be included in the proposed contract price (blended hourly rate).
- 3.1.6. The Contracting authority reserves the right to request the Contractor to replace a team member in case of any of the following reasons:
  - repeated careless performance of duties;
  - incompetence or negligence;
  - non-fulfilment of obligations or duties stipulated in the Contract;
  - poor knowledge of English language (unsatisfactory presentation, writing skills in English);
  - termination of employment relations or cooperation agreement with the Contractor;

Failure of the Contractor to propose another expert with equivalent or better qualifications might lead to the termination of the Contract.

#### **3.2. Confidentiality, independence and absence of conflict of interest**

- 3.2.1. The Contractor is expected to ensure that its contractual and professional obligations in particular with regard to confidentiality, independence, objectivity and absence of conflict of interests are well understood and upheld throughout and after Services provision.
- 3.2.2. During the provision of Services, Contractor shall provide independent view based on its expertise, education and experience.

#### **3.3. Miscellaneous**

- 3.3.1. Communication with Contracting authority under Contract (e.g. information, requests, submissions, formal notifications, etc.) must be carried out in Latvian and English.
- 3.3.2. Communication channels: e-mail, Skype, telecommunications etc.
- 3.3.3. All written materials shall meet the highest standards and technical terminology proficiency. The Contractor shall engage professional proofreading Services at its own expense, if needed for ensuring quality materials.



- 3.3.4. Contractor shall include any travel expenses (if any arise) in Service price. Contracting authority will not additionally reimburse any travel expenses incurred by Contractor during the provision of Services.

**ANNEX NO 2: APPLICATION**

**APPLICATION FOR PARTICIPATION IN THE PROCUREMENT  
"ON-DEMAND ACCOUNTING ADVISORY SERVICES"  
(ID NO RBR 2020/7)**

<b>Name of the Tenderer or all members of the partnership</b>	
<b>Registration number of the Tenderer or all members of the partnership</b>	
<b>VAT payer registration number of the Tenderer or all members of the partnership</b>	
<b>Name, surname and position of the person authorized to represent the Tenderer or name of nominated representative (in case of established partnership)</b>	
<b>Legal address of the Tenderer or all members of the partnership</b>	
<b>Correspondence address of the Tenderer or all members of the partnership</b>	
<b>Bank of the Tenderer or all members of the partnership</b>	
<b>Bank code (SWIFT) of the Tenderer or all members of the partnership</b>	
<b>Bank account (IBAN) of the Tenderer or all members of the partnership</b>	
<b>Contact person and contact information of the Tenderer (name, surname, position, telephone number, e-mail)</b>	

By submitting the Proposal, the Tenderer hereby:

1. Confirms participation in the Procurement "On-demand accounting advisory services", ID No RBR 2020/7;
2. Confirms that, if the Tenderer will be awarded the Contract, the Tenderer will provide quality and timely performance of the contractual liabilities for the offered price and in accordance with the requirements of the Annex No 1 "Technical specification";
3. Confirms that Regulations 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 Regulations as well as enter into a Contract in accordance with the Draft contract enclosed with the Regulations (Annex No 7 "Draft contract");
4. Confirms that in the preparation and submission of its Proposal, Tenderer has fully considered all the clarifications issued by the Contracting authority;
5. Confirms that Tenderer has prepared the Proposal without connection with any other person, company or parties likewise submitting a Proposal and that it is prepared in all respects for in good faith, without collusion or fraud;
6. Agrees that the Contracting authority reserves itself the right to reject any or all Proposals and cancel the Procurement before entry into Contract on the grounds specified in the Regulations or the law.
7. Guarantees that all information and documents provided are true.

**8. Confirms<sup>6</sup> that meets the criteria of (please indicate by ticking relevant box):**☐ a small☐ medium☐ other

sized enterprise<sup>7</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>8</sup>

---

  
[date of signing]

---

  
[name and position of the representative of the Tenderer]

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<sup>6</sup> Tenderer must indicate size of enterprise for each member of the partnership, if the Tenderer is a partnership.

<sup>7</sup> The information on the size of the Tenderer is used solely for statistical purposes and is not in any way whatsoever used in the evaluation of the Tenderer or the Proposal.

<sup>8</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)

**ANNEX NO 3: EXPERIENCE OF THE TENDERER**

**DESCRIPTION OF THE TENDERER’S EXPERIENCE FOR THE PROCUREMENT  
“ON-DEMAND ACCOUNTING ADVISORY SERVICES”  
(ID NO RBR 2020/7)**

**TABLE NO 1 (SECTION 8.3.1 OF THE REGULATIONS)**

No	Client, client’s contact information for references (name of representative, phone, e-mail) <sup>9</sup>	Period of the contract (month/year – month/year)	Annual net turnover of the Client at the moment of provision of the services	Description of the services provided what characterize required experience, stated in Section 8.3.1 of the Regulations (IFRS accounting advisory services)
1.				
2.				
3.				
n+1				

**TABLE NO 2 (SECTION 8.3.2 OF THE REGULATIONS)**

No	Client, client’s contact information for references (name of representative, phone, e-mail) <sup>10</sup>	Period of the contract (month/year – month/year)	Annual net turnover of the Client at the moment of provision of the services	Baltic State under which accounting law the accounting advisory services has been provided (Latvia, Lithuania, Estonia)	Description of the services provided what characterize required experience, stated in Section 8.3.2 of the Regulations
1.					
2.					
3.					
n+1					

[date of signing]

[name and position of the representative of the Tenderer]

<sup>9</sup> In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements set in Section 8.3.1. of the Regulations.

<sup>10</sup> In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements set in Section 8.3.2 of the Regulations.

**ANNEX NO 4: EXPERIENCE OF THE EXPERT**

**DESCRIPTION OF THE EXPERT’S EXPERIENCE FOR THE OPEN COMPETITION  
“ON-DEMAND ACCOUNTING ADVISORY SERVICES”  
(ID NO RBR 2020/7)**

**GENERAL INFORMATION:**

Key expert \_\_\_\_\_ (Name, Surname), \_\_\_\_\_ (phone, e-mail)

**TABLE NO 1 (SECTION 16.2.3 OF THE REGULATIONS)**

No	Client, client’s contact information for references (name of representative, phone, e-mail) <sup>11</sup>	Period of the contract (month/year – month/year)	Description of the services provided what characterize required experience, stated in Section 16.2.3 of the Regulations (IFRS accounting advisory services)
1.			
2.			
3.			
n+1			

**TABLE NO 2 (SECTION 16.2.4 OF THE REGULATIONS)**

No	Client, client’s contact information for references (name of the representative, phone, e-mail) <sup>12</sup>	Period of provision of services (month/year – month/year)	Baltic State under which accounting law the services has been provided (Latvia, Lithuania, Estonia)	Description of the services provided what characterize required experience, stated in Section 16.2.4 of the Regulations (financial reporting services or accounting advice services)	Description of Client’s profile (indicating, if Client had a reorganization or Client has foreign branches)
1.					
2.					
n+1					

<sup>11</sup> In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements set in Section 16.2.3. of the Regulations.

<sup>12</sup> In case of doubt, the Contracting authority has the right to contact the Client to verify that it complies with the requirements set in Section 16.2.4. of the Regulations.

I confirm that I have consented that my candidature is proposed in the procurement "On-demand accounting advisory services", ID No RBR 2020/7.

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 procurement I will participate as Key expert in the execution of the Contract.

---

[date of signing]

---

[signature]

---

[name of the expert]

**ANNEX NO 5: OTHER ENTITIES ON WHOSE CAPACITY TENDERER RELIES**

**A LIST OF OTHER ENTITIES ON WHOSE CAPACITY TENDERER RELIES TO MEET THE REQUIREMENT OF THE  
PROCUREMENT  
"ON-DEMAND ACCOUNTING ADVISORY SERVICES"  
(ID NO RBR 2020/7)**

No	Name of the entity (registration No., legal address)	Description of the capacity
1		
2		
n+1		

---

[date of signing]

---

[name and position of the representative of the Tenderer]

## ANNEX NO 6: FINANCIAL PROPOSAL

### FINANCIAL PROPOSAL FOR THE PROCUREMENT “ON-DEMAND ACCOUNTING ADVISORY SERVICES” (ID NO RBR 2020/7)

The Tenderer [*name of the Tenderer*] offers to deliver services in accordance with the Annex No 1 “Technical specification” for the following costs<sup>13</sup>:

No.	Service	Unit	Hourly rate (EUR without VAT)
1.	On-demand accounting advisory services (blended hourly rate)	hour	
Total (EUR without VAT):			

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[date of signing]

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[name and position of the representative of the Tenderer]

<sup>13</sup> When preparing the Financial proposal, the rules of Section 10 of the Regulations shall be considered.



**ANNEX NO 7: DRAFT CONTRACT**

**FRAMEWORK AGREEMENT  
FOR THE PROVISION OF ON-DEMAND ACCOUNTING ADVISORY SERVICES**

between

RB Rail AS

and

[●]

Contract registration number

[●]

CEF<sup>14</sup> Contract No

INEA/CEF/TRAN/ M2014/1045990

INEA/CEF/TRAN/ M2015/1129482

INEA/CEF/TRAN/ M2016/1360716

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<sup>14</sup> Grant Agreement under the Connecting Europe Facility

This Framework agreement (“**Agreement**”) together with all Annexes thereto, is entered into in Riga, on [●] of the year 2020 (the “**Commencement Date**”) by and between:

**RB Rail AS**, a joint stock company registered in the Latvian Commercial Register, uniform registration No 40103845025, legal address at K.Valdemāra iela 8-7, Riga, LV 1010, Latvia (the “**Principal**”), represented by [●], acting on the basis of the Company’s Regulations on Representation Rights dated [●], on the one side and

[●], a [●] company registered in the [●], uniform registration No [●], legal address at [●] (the “**Service Provider**”), represented by [●] acting on the basis of [●], on the other side,

who are collectively referred to as the “**Parties**” and separately – as “**Party**”.

WHEREAS:

- (A) This Agreement is entered into under the Global Project which includes all activities undertaken by the respective beneficiaries and implementing bodies of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania in order to build, render operational and commercialise the Rail Baltica railway – a new fast conventional double track electrified railway line according TSI INF P2-F1 criteria and European standard gauge (1435mm) on the route from Tallinn through Pärnu-Riga-Panevėžys-Kaunas to Lithuanian-Polish border, with the connection of Kaunas – Vilnius, and related railway infrastructure in accordance with the agreed route, technical parameters and time schedule;
- (B) The Principal has organised the procurement “On-demand accounting advisory services” (identification No RBR 2020/7) (the “**Procurement**”) where the Service Provider’s tender proposal (the “**Proposal**”) was selected as the winning bid;
- (C) This Agreement is co-financed from the Connecting Europe Facility (CEF), CEF Contract No INEA/CEF/TRAN/ M2014/1045990, Activity 23, Action No: A5.1.1: “Project implementation support measures (RBR)”, CEF Contract No INEA/CEF/TRAN/ M2015/1129482, Activity 18, Action: “Global project management” and CEF Contract No INEA/CEF/TRAN/ M2016/1360716, Activity 9, Action No: C5.1.2: “Global project and Action project implementation support measures (RB Rail, EE, LV, LT)”.

NOW, THEREFORE, the Parties hereby enter into this Agreement on the following terms and conditions:

## 1. SUBJECT OF THE AGREEMENT

- 1.1. This Agreement sets out the rights and obligations, terms and conditions that apply to the Parties of the Agreement where the Service Provider is contracted by the Principal to provide on-demand accounting advisory services related to operations of the Principal in accordance with the Technical Specification (Annex A of the Agreement) for the Principal for the successful implementation of the Global Project.
- 1.2. The range of on-demand accounting advisory services to be provided by the Service Provider to the Principal is described in Annex 1 of the Procurement (Annex A of the Agreement) and includes, but is not limited to, accounting treatment of specific transactions under IFRS (International Financial Reporting Standards issued by the International Accounting Standards Board), as far as applicable in European Union, or under accounting laws and regulations of Latvia, Estonia and Lithuania, including re-organisation, advice on best practice accounting processes and set-up of IT systems such as, but not limited to, accounting for branches and advisory services in relation to development of accounting software (assistance with defining IT development requirements from accounting perspective) (the “**Services**”). The procedure for the provision of the Services is provided in Clause 3 of this Agreement.
- 1.3. The purpose of the Agreement is to define the terms and conditions under which the Service Provider shall provide Services to the Principal on an on-demand basis. The Agreement is framework-based and does not impose an obligation on the Principal to appoint the Service Provider to provide Services. This Agreement entitles the Service Provider to be engaged by the Principal at the full discretion of the latter.
- 1.4. For every assignment, a separate Assignment Order in any form/document as decided by the Principal (the “**Assignment Order**”) shall be issued by the Principal and confirmed by the Service Provider.

- 1.5. The Service Provider shall provide Services only on the basis of a confirmed Assignment Order, the conditions thereof become binding on both Parties.
- 1.6. If the Service Provider refuses or fails to duly complete the assignment after the Assignment Order has been confirmed between the Parties, the Service Provider is obligated to pay a contractual penalty to the Principal at the Principal's request of the amount corresponding to the double (2x) of the total sum of the fee according to the Assignment Order.
- 1.7. All Assignment Orders and this Agreement shall form a single agreement between the Parties. The provisions of this Agreement constitute an integral part of each Assignment Order. In the event of any inconsistency between the provisions of this Agreement and Assignment Order, the Assignment Order shall prevail.

## 2. AGREEMENT VALUE AND PERIOD

- 2.1. The Agreement with the Service Provider is on-demand based with no fixed or guaranteed work-load and/or fixed overall value.
- 2.2. The total allocated amount for the provision of the Services under this Agreement is 40 000,00 EUR (forty thousand euros 00 cents), excl. VAT.
- 2.3. However, this does not bind the Principal to purchase Services through the Agreement for the allocated amount.
- 2.4. The Agreement is concluded for a period of twenty-four (24) months starting from the Commencement Date. [OPTIONAL] Considering that the Agreement has been signed by representatives of both Parties via a secure digital signature, the Commencement Date is considered as the date when the specific electronic file containing the Agreement has been duly signed with a secure digital signature by all required representatives of both Parties (i.e. the timestamp of the last digital signature required to enter into this Agreement shall be used as signing date).
- 2.5. After the expiry of the Agreement period or once the allocated amount has been reached no more new Assignment Orders can be concluded. The Agreement is terminated once all of the existing Assignment Orders are fully completed by the Service Provider and approved by the Principal and the Parties have fulfilled their contractual obligations arising out of this Agreement.

## 3. APPOINTMENT OF AN ASSIGNMENT

- 3.1. In order to receive Services, the Principal and the Service Provider shall conclude an Assignment Order.
- 3.2. The Principal invites the Service Provider to implement an assignment by sending request for assignment (the “Request for Assignment”) by e-mail [●] to Service Provider's e-mail [●].
- 3.3. The Request for Assignment shall include details of the Services to be carried out by the Service Provider, including but not limited to details on precise content, scope, form of deliverable, etc. as may be necessary by the Principal.
- 3.4. After receiving the Request for Assignment, as soon as possible but not later than within the one (1) business day, the Service Provider shall respond by sending its proposal to implement an Assignment by stating its availability to implement the assignment. The Principal can set other reasonable timeframe of response in the Request for Assignment. In case of a Conflict of Interests (Clause 3.9 and Section 14 of the Agreement), the Service Provider is obligated to notify the Principal immediately about its Conflict of Interests and refrain from providing the particular assignment.
- 3.5. The proposal to implement an Assignment should be based on the proposed price (blended hourly rate) in the Proposal.
- 3.6. The Principal accepts the proposal to implement an Assignment by sending request to draft the Assignment Order to the Service Provider by email [●] to Service Provider's e-mail [●].
- 3.7. After the corresponding request for Assignment is accepted by the Service Provider and the proposal to implement an Assignment is accepted by the Principal, the conditions set in the Assignment Order become binding upon the Parties and the Service Provider starts to provide Services according to the agreed Assignment.

- 3.8. The Service Provider should draft an Assignment Order and align it with the Principal by e-mail. Aligned Assignment Order should be signed and sent to the Principal as soon as possible but not later than within the five (5) business day after receiving the request to draft it.
- 3.9. The Service Provider has the right to reject Principal’s invitation to implement an Assignment only in exceptional cases when the Service Provider envisages that the implementation of a particular Assignment Order would result in a conflict with the requirements set in the Agreement, or in case of a Conflict of Interests (Section 14 of the Agreement). The decision of the Service Provider to reject the Principal’s invitation to implement an Assignment Order shall be provided in writing by stating the actual reasons for such decision.
- 3.10. The Service Provider has the right to request reasonable explanatory information from the Principal regarding the specifics of provision of an assignment via email.

#### 4. PERFORMANCE OF THE AGREEMENT

- 4.1. The Service Provider must perform the Agreement in compliance with its provisions, the instructions given by the Principal, under the specific terms agreed in each Assignment Order and all legal obligations applicable under EU, international and national law.
- 4.2. The Principal shall provide the Service Provider or Service Provider’s nominated advisers (Experts so nominated in the Proposal; the “**Expert**”) with a respective power of attorney at the request of the Service Provider, if necessary for implementation of the particular assignment.
- 4.3. The Service Provider and the Expert providing the Services to the Principal must comply with the relevant professional diligence and applicable legislation governing the activities of accounting advisers and the provision of Services must be of consistently high quality that is necessary to achieve the purpose of the particular Assignment Order agreed between the Parties in particular Assignment Order. The Service Provider confirms that it shall not involve employee and/or staff who have a criminal record, in the performance of the Agreement. The Principal has the rights to request and the Service Provider without a delay shall submit to the Principal the name, surname, personal code of a natural person involved in implementation of any Assignment and the Service Provider should inform the employee that his/her data will be provided to the Principal for purpose of data processing by the Principal for implementation of Assignment. The Principal has a right to demand dismissal of such a natural person non-compliant with the security clearance requirements at the Principal’s sole discretion based on the Principal’s written request for dismissal.
- 4.4. The Service Provider shall, within reason and in the scope of Services, endeavour to carry out all activities that would reasonably assist and aid the Principal, always act in the best interests of the Principal and use its best endeavours to engage all legal means reasonably available in achieving the result of the particular assignment specified in the particular Assignment Order.
- 4.5. The Principal shall deliver to the Service Provider relevant essential information and documentation in its possession or control relating and necessary for the provision of Services. The Principal understands that the proper provision of Services requires the Principal to give to the Service Provider all the information relevant to the particular assignment, and to inform the Service Provider of any changes to that information. The Service Provider shall return original documents to the Principal immediately at the Principal’s request.
- 4.6. The Principal shall have the final and exclusive right in the negotiations, terms, decisions, agreements, etc. and in any and all matters related to Services.
- 4.7. The Service Provider shall carry out the tasks, prepare and provide all documents, reports, minutes of the meetings and any other information material (i.e. provide **Deliverables**<sup>15</sup>) specified in an Assignment Order.
- 4.8. As part of the Deliverables, the Service Provider shall prepare information material in a fully comprehensive and understandable<sup>16</sup> way, by providing explicit and full source details (initial information, evidences etc.) used for the analysis and provision of Deliverables.

<sup>15</sup> “**Deliverables**” shall include all tasks (including, but not limiting to, actions and information material, agreements, procedural and other documents) to be carried out by the Service Provider in order to fully implement the corresponding Assignment Order.

<sup>16</sup> The information provided in the Deliverables shall be understandable to the average-level accountant or manager with no particular experience in a specific topic concerned.

- 4.9. The Principal shall have no responsibility over any content of Deliverables provided by the Service Provider.
- 4.10. Approval by the Principal of the Deliverables of the corresponding Assignment Order shall not mean the approval of the outcome results (reports, summary, advice, decisions etc.) delivered by the Service Provider.

## 5. RIGHTS AND OBLIGATIONS

- 5.1. The Service Provider shall be responsible for the availability of its Experts implementing particular Assignment Orders.
- 5.2. The Service Provider shall be responsible for ensuring that its Experts included in the Agreement fulfil the requirements thereof as long as it comes to Experts’ responsibility.
- 5.3. The Service Provider shall remain responsible for the results of its services (i.e. Deliverables) after the completion of an Assignment Order. To clarify – the Service Provider can be held liable for damages caused to the Principal or third parties as a result of the Services in the event of the Service Provider’s wilful misconduct or negligence. Any additional expenses arisen due to the correction of unacceptable outcome results shall be covered solely by the Service Provider. The Principal reserves the right to request the Service Provider to correct the results of its Services regardless whether it is necessary during the implementation of an Assignment Order or after it was completed and approved.
- 5.4. Only the Expert specified in an Assignment Order is allowed to implement the tasks defined therein. No subcontracting (excluding Experts) or staff in any kind or form is allowed for implementation of the Assignment Order without the Principal’s prior approval according to Section 62 of the Public Procurement Law and Clause 4.3 of the Agreement.
- 5.5. The Service Provider must keep records and other supporting documentation (original supporting documents) as evidence that the Assignment Order is correctly performed and the expenses were actually incurred. These must be available for review upon the Principal’s request.
- 5.6. The Principal is obliged to pay for the Services in accordance with the Assignment Order and based on the approved Deliverables of the Service Provider pursuant to the payment request.
- 5.7. The Service Provider represents and warrants to the Principal, as of the Commencement Date, as follows:
  - 5.7.1. it has all requisite qualification, skills and competence to provide the Service to the Principal on the terms and conditions of this Agreement which are no less favourable than the terms and conditions of service identified by the Service Provider in any document submitted by the Service Provider to the Principal as part of the Procurement and on the terms of the Service Provider’s Proposal identified in accordance with Service Provider’s Proposal;
  - 5.7.2. it holds all requisite licenses, permits, approvals and consents that are or may be necessary to enable proper performance of the Service according to the specifications contained in this Agreement and Technical Specification (Annex A of the Agreement);
  - 5.7.3. it has all requisite ability to ensure the highest quality of the Service;
  - 5.7.4. it is not deemed to be a person associated with the Principal for the purposes of applicable law;
  - 5.7.5. it is compliant with all of the requirements of the Service Provider’s Declaration contained in Annex C of the Agreement and will continue to be compliant with all such requirements during the term of this Agreement;
  - 5.7.6. it has not been registered as a VAT payer in the Republic of [COUNTRY] [IF APPLICABLE];
  - 5.7.7. the income mentioned in this Agreement will not derive through permanent establishment or fixed base maintained by the Service Provider in the Republic of Latvia. The Service Provider agrees to submit to the Principal four (4) 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 [COUNTRY] (the “Residence Certificate”) confirmed by Competent Authority of the [COUNTRY] and the Latvian State Revenue Service. The Residence Certificate shall be submitted to the Principal prior the Principal will due to make a payment of the fee or other payments to the Service Provider. Otherwise the Principal will withhold withholding tax at the rate of 20% from the fee and payments made to the Service Provider. The Principal is entitled to make any deductions from the payments due to the Service Provider if the Service Provider doesn’t comply with this provision [IF APPLICABLE].

## 6. PAYMENTS

- 6.1. Following the signing of the Assignment Order and the Delivery-Acceptance Deed by both Parties, which can be also digitally signed with time stamp, the Service Provider must submit the invoice within thirty (30) calendar days or at another time agreed between the Parties in the respective Assignment Order. The Principal authorises the Head of Corporate Finance Department of RB Rail AS and/or the Accounting Manager of RB Rail AS to sign the Delivery-Acceptance Deed.
- 6.2. Invoices should be sent to the e-mail [invoices@railbaltica.org](mailto:invoices@railbaltica.org) and should include the following details about the Agreement: Identification number RBR 2020/7, the Assignment Order and name of the contact person Anita Pūka. 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”.
- 6.3. The Principal shall reject the invoice (parts of) if it does not fulfil the conditions of the Agreement and particular Assignment Order.
- 6.4. The Principal shall make the payment after thirty (30) calendar days from the date on which the Principal receives properly prepared invoice on the accepted Deliverable and signed Assignment Order. Acceptance does not mean recognition of compliance, authenticity, completeness or correctness of content.
- 6.5. If the Principal suspend the payment in accordance with Clause 6.4 of this Agreement, then the Principal must formally notify by email the Service Provider of the suspension and the reasons for it. After the condition for suspending the payment deadline is mitigated, the suspension will be lifted — and the remaining payment period will resume.
- 6.6. In the event of failure by the Service Provider to meet any deadline and/or supply any Deliverable by the date stipulated in the particular Assignment Order, the amount of fee payable by the Principal to the Service Provider under the corresponding Assignment Order with respect to the relevant time period shall be reduced by zero point five percent (0.5%) of the amount of such fee for each day of delay. The total amount of the contractual penalty per each occurrence of delay or breach cannot exceed 10% of the total amount the particular Assignment. Payment of the contractual penalty shall not release the Parties from due performance of their obligations under this Agreement and applicable statutory laws.
- 6.7. Payments will be made in euros.
- 6.8. The Principal shall pay the amounts shown on the invoice by bank transfer to the bank account of the Service Provider indicated in this Agreement. Each Party bears its own bank charges.
- 6.9. The blended hourly rate of the Service Provider described in Proposal (Annex B of the Agreement) and the fees described in respective Assignment Orders are exclusive of VAT. The VAT treatment for the supply of Services under an Assignment Order shall be determined pursuant to the VAT laws of the jurisdiction where a taxable transaction for the VAT purposes is deemed to take place.

## 7. FEES

- 7.1. The Service Provider shall act as an independent contractor on its own cost and for its own account and the Principal shall not be obliged to pay to the Service Provider any royalties or fees other than the fees and/or rates expressly agreed upon in the Assignment Order or to compensate any other kind of costs or expenses of the Service Provider. The Principal shall remunerate to the Service Provider the fees and costs stated in the Assignment Order.
- 7.2. The applicable fees (hourly rate) of the Service Provider are included in the Proposal (Annex B of the Agreement). The fees (hourly rates) offered by the Service Provider at the request of the Principal for

providing a particular Assignment may not be higher than the fees offered by the Service Provider in the Proposal (Annex B of the Agreement) and the offered fees are final for the duration of the Agreement. If the Service Provider is in breach of the previous sentence, the Principal refuses the Service Provider's proposal for providing of an Assignment.

## **8. OWNERSHIP AND USE OF THE RESULTS (INCLUDING INTELLECTUAL PROPERTY RIGHTS)**

- 8.1. The Principal will fully and irrevocably acquire the ownership of the results under this Agreement including any rights in any of the results listed in this Agreement, including copyright and other intellectual or industrial property rights, and all technological solutions and information contained therein, produced in performance of the Agreement.
- 8.2. The Principal will acquire all rights and obligations under this Agreement from the moment the Deliverables (results) are delivered by the Service Provider and are not limited in time and will be valid after the expiry of the Agreement and/or the individual Assignment Order.
- 8.3. The copyright fee has been included in the fee (Section 7 of the Agreement). The transfer of copyright shall also remain valid if the Agreement is prematurely terminated for any reason and/or terminated without the complete delivery of the Deliverables.
- 8.4. The Principal has the right to publish material submitted by the Service Provider without the Service Provider's permission, as well as to require the Service Provider to change it, to redo it, to divide it into parts. If the Service Provider and the Principal cannot agree on the execution of this work, the Principal is entitled to involve another Service Provider in carrying out the said task.
- 8.5. The Service Provider 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.
- 8.6. 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 Service Provider shall be liable for the violation. The Service Provider shall be obliged to compensate the damage caused to third persons and satisfy any claims for the compensation of damage filed against the Principal by third persons.

## **9. AMENDING THE AGREEMENT AND TERMINATION OF THE AGREEMENT**

- 9.1. The Agreement can be amended in compliance with the provisions of Section 61 of the Public Procurement Law.
- 9.2. Amendments to the Agreement are proposed by the Party who sees a need for the amendments by submitting a justification for the proposal of amendments.
- 9.3. Amendments and supplements to the Agreement shall be valid only when they have been prepared in writing and signed by the Parties; they shall be enclosed to this Agreement and become an integral part of it.
- 9.4. When deciding on amending the Agreement, compliance with Public Procurement Law of the Republic of Latvia, Procurement and requirements under its Regulation must be ensured.
- 9.5. This Agreement may be terminated by a Party by giving the other Party sixty (60) calendar days prior written notice of termination (“**Regular Termination**”). In the event of Regular Termination, the Agreement shall remain legally binding on the Parties until, but only in respect of, all rights and obligations already created or existing prior to the date of the Regular Termination are fully performed by both Parties.
- 9.6. The Principal reserves the right to terminate the Agreement within ten (10) business days after sending a written notice to the Service Provider due to the following reasons:
  - 9.6.1. The Service Provider has committed substantial errors, irregularities or fraud, or is in serious breach of its obligations under the procurement procedure or under the Agreement, including false declarations and obligations relating;
  - 9.6.2. The Service Provider breaches conditions of the Agreement and does not cure the breach within five (5) business days of written notice of same;

- 9.6.3. Service Provider and/or its Expert poorly performs his/her tasks defined in the corresponding Assignment Order;
- 9.6.4. In the circumstances as described in Clause 12.11 of the Agreement.
- 9.7. The Parties reserve the right to terminate the Agreement at any time after sending a written notice if:
  - 9.7.1. the Principal fails to make a payment where such failure has not been eliminated within thirty (30) calendar days after receipt of a written notice of failure to pay from the Service Provider;
  - 9.7.2. a Party is dissolved, declares bankruptcy, becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
  - 9.7.3. a breach of confidentiality (Section 13 of the Agreement) occurs;
  - 9.7.4. a breach of obligation to avoid Conflict of Interests (Section 14 of the Agreement) occurs.
- 9.8. The Principal reserves the right to terminate the Agreement if Services of the Service Provider are no longer required or the Service Provider has rejected at least two (2) Principal's invitation to implement an Assignment.
- 9.9. The Principal reserves the right to terminate a particular Assignment Order if the Services specified thereof are no longer required. In such a case, the costs incurred by the Service Provider up to the notification of the termination of an Assignment Order are subject to the reimbursement by the Principal.
- 9.10. If the Principal has unilaterally terminated the Agreement due to non-fulfilment of the obligations undertaken in the Agreement by the Service Provider, the Principal has the right to exclude the Service Provider from participation in any tenders organized by the Principal during twelve (12) months from the date of the termination of the Agreement.
- 9.11. The Agreement can be immediately terminated upon giving the other Party a written notice of termination explaining, in reasonable detail, the reason for termination upon occurrence of any of the provisions mentioned in the Section 64 of the Public Procurement Law. In such a case, the Principal shall pay the Service Provider the fees in respect of the Services provided under this Agreement up to the date of the notification of the termination of this Agreement and the Principal is not obliged to pay contractual or any other penalty or damages to the Service Provider.
- 9.12. The Principal may terminate this Agreement immediately upon giving to the Service Provider a written notice of termination explaining, in reasonable detail, the reason for termination, if:
  - 9.12.1. CEF co-financing for further financing of the accounting advice service are not available to the Principal fully or partly;
 

In such a case, the Principal shall pay the Service Provider the fees in respect of the Services provided under this Agreement up to the date of the notification of the termination of this Agreement and the Principal is not obliged to pay contractual or any other penalty or damages to the Service Provider.
  - 9.12.2. it is not possible to execute the Agreement due to the application of international or national sanctions, or European Union or North Atlantic Treaty Organization applied sanctions significantly affecting interests of financial or capital market.

## 10. **FORCE MAJEURE**

- 10.1. 'Force majeure' means any situation or event that:
  - 10.1.1. prevents either Party from fulfilling their obligations under the Agreement;
  - 10.1.2. was unforeseeable, exceptional and beyond the Parties' control;
  - 10.1.3. was not due to error or negligence on their part; and
  - 10.1.4. proves to be inevitable in spite of exercising due diligence.
- 10.2. A force majeure event must be immediately and formally notified to the other Party.
- 10.3. Notification must include details of the situation's nature, likely duration and expected effects.
- 10.4. The Party faced with a force majeure will not be held in breach of its Agreement obligations if the force majeure has prevented it from fulfilling them.



## **11. COMMUNICATION BETWEEN THE PARTIES**

- 11.1. Communication under the Agreement (e.g. information, requests, submissions, formal notifications, etc.) must:
  - 11.1.1. be carried out in English;
  - 11.1.2. be carried out between the contact persons specified in the corresponding Assignment Order;
  - 11.1.3. be made in writing (including electronic form); and
  - 11.1.4. bear the Agreement's and Assignment Order's number.
- 11.2. During the implementation of the Assignment Order, the communication via e-mail shall be executed between the persons indicated in the corresponding Assignment Order. Additionally, all copies of those e-mail messages shall be sent also to Parties' e-mail addresses specified in the Agreement.
- 11.3. Communications by e-mail are deemed made when they are sent by the sending Party and receipt is confirmed by the receiving Party, unless the sending Party receives a message of non-delivery. Sending Party is responsible to get the confirmation that a message (with all its contents) sent via e-mail was received.
- 11.4. Assignment Orders, notices, declarations and invoices shall be deemed received:
  - 11.4.1. if delivered by hand, on the first business day following the delivery day;
  - 11.4.2. if sent by post, on the fifth (5th) business day after the date of posting.
- 11.5. If the final day of a time period referred to in this Agreement is Saturday, Sunday or a holiday prescribed by law in the Republic of Latvia, the following working day shall be considered the final day of the time period.
- 11.6. The Parties agree that information may be exchanged electronically over the internet.

## **12. EXPERT CHANGE**

- 12.1. Only in exceptional cases and in accordance with Public Procurement Law of the Republic of Latvia the Experts can be replaced by signing an amendment to the Agreement.
- 12.2. The proposed Expert's qualifications must be equivalent to or higher than those of the replaced Expert. The qualifications must be proven by submitting the same qualification documents/information as for the selected expert within the Procurement process.
- 12.3. The Principal reserves the right to request the Service Provider to replace an Expert in case of any of the following reasons:
  - 12.3.1. repeated careless performance of duties;
  - 12.3.2. incompetence or negligence;
  - 12.3.3. non-fulfilment of obligations or duties stipulated in the Agreement;
  - 12.3.4. poor knowledge of English language (unsatisfactory presentation, writing skills in English);
  - 12.3.5. termination of employment relations or cooperation agreement with the Service Provider.
- 12.4. The Service Provider shall not involve experts, employee and/or staff (including but not limited to manager, consultants) who have a criminal record, in the implementation of the Agreement.
- 12.5. The Service Provider shall submit to the Principal the name, surname, personal code (identification number), professional title (job position) of every natural person that will implement the Agreement and/or will be present on site at least ten (10) business days prior involvement of this person in the implementation of the Agreement and/or its presence on site. The Service Provider shall provide a brief (concise) description of duties towards the implementation of the Agreement of the persons, and, if requested by the Principal.
- 12.6. The Principal has a right to demand dismissal of such a natural person non-compliant with the security clearance requirements stipulated in this Clause 12.4 of the Agreement at the Principal's sole discretion on the basis of the Principal's written request for dismissal. Parties agree that such Principal's decision is in-contestable.

- 12.7. The Service Provider shall replace the Sub-Contractor and/or Staff member which, during the effectiveness of this Agreement, meets any of the compulsory grounds for exclusion of tenderers (or Sub-Contractors) that were verified during the Procurement Procedure and/or the Principal has demanded his/her dismissal according to Clause 12.4 of the Agreement and to prevent (i) involvement of such a natural person in the implementation of the Agreement and (ii) the presence of this person in the real estate, construction site or any other site. The Service Provider shall immediately undertake all the necessary actions and measures to ensure that any risk of involvement of such a natural person in the implementation of the Agreement is promptly and duly eliminated.
- 12.8. In case mentioned in Clause 12.6 of the Agreement the Service Provider is obliged:
- 12.8.1. to immediately replace the dismissed person according to Section 62 of the Public Procurement Law of the Republic of Latvia and the Agreement, and
- 12.8.2. to comply with the Principal's written instructions pursuant to the Clause 12.6 of the Agreement and not to challenge these instructions, and
- 12.8.3. to inform the Principal about dismissal or replacement proceedings pursuant to Clause 12.6 of the Agreement.
- 12.9. In case if the immediate dismissal or replacement of the dismissed natural person non-compliant with the security clearance requirements stipulated in this Clause 12.6 of the Agreement results in the unreasonable increase of the costs towards the Service Provider, the Service Provider shall immediately inform the Principal about this fact in written and the Parties shall agree upon the conditions of the provision of the Services.
- 12.10. The Service Provider's non-compliance with the security clearance requirements stipulated in Clauses 12.4 and 12.6 of the Agreement, the Principal's instructions towards the Service Provider regarding these security clearance requirements or other provisions of Section 12 of the Agreement constitutes a material breach (breach of a material term or condition) of the Agreement.
- 12.11. Failing of the Service Provider to propose another expert with equivalent or better qualifications within ten (10) business days period might lead to the termination of the Agreement by the Principal according to the procedure set in Clause 9.6.4 of the Agreement.
- 12.12. The Principal shall approve or reject the replacement of an expert as soon as possible, but no later than within five (5) business days after the receipt of all information and documents necessary for a decision in accordance with the provisions in this Agreement.
- 13. CONFIDENTIALITY**
- 13.1. Each Party undertakes to keep confidential the terms and conditions of the Agreement and Assignment Order(s) and not to use or disclose any and all information of any kind or nature whatsoever, whether written or oral or whatsoever form, including, but not limited to, financial information, trade secrets, customer lists, any and all information and documents related to the negotiations and the subsequent performance of the Agreement between the Parties, which is not known to the general public ("**Confidential Information**").
- 13.2. The Service Provider and Experts of the Service Provider shall maintain confidentiality of the fact that the Principal has requested the Service Provider to provide Services as well as of the information that has become known to the Service Provider in the provision of Services. The Service Provider shall use the Confidential Information only for the provision of the Services agreed between the Parties in the Assignment Order or to perform its other obligations under the Agreement and to restrict disclosure of the Confidential Information solely to those representatives who have to know the Confidential Information in order to carry out the Services or perform Service Provider's obligations under the Agreement.
- 13.3. A Party has the right to disclose Confidential Information only if it is explicitly required to do so by law or pursuant to any order of court or other competent authority or tribunal or if such disclosure has been agreed by the other Party in writing.
- 13.4. The Principal reserves the right to request the Service Provider and/or Expert to sign a confidentiality agreement for the implementation of a particular Assignment Order.
- 13.5. The confidentiality obligation shall not expire in time.

- 13.6. If the Service Provider violates its confidentiality obligation, then it shall be liable to pay to the Principal a contractual penalty in the amount corresponding to thrice (3x) the total sum of fee according to the Assignment Orders if the breach took place in relation with the performance of the assignment, but not less than 10 000,00 EUR (ten thousand *euros* 00 cents) for each breach of such obligation.

#### **14. SERVICE PROVIDER AND EXPERTS' INDEPENDENCE AND ABSENCE OF CONFLICT OF INTEREST**

- 14.1. If the Service Provider provides or will provide accounting advisory services to any person whose interests are or probably will be in conflict with the interests of the Principal in relation with providing the assignment (in the past, in the present and in the foreseeable future) to the Principal, or in case of any circumstances, which harm or may harm the possibility of the Service Provider to act solely in the interests of the Principal (“**Conflict of Interests**”), the Service Provider has the obligation to refrain from providing the assignment to the Principal.
- 14.2. As part of the obligation of the Service Provider to avoid Conflict of Interest, the Service Provider must also refrain from providing accounting advisory services to any person whose interests are or probably will be in conflict with the interests of the Principal in relation with providing the Assignment (in the past, in the present and in the foreseeable future) to the Principal.
- 14.3. The Service Provider immediately has to notify the Principal before taking up any assignments, if there can be doubts whether such are permissible pursuant to the obligation to avoid Conflict of Interests set forth in this Agreement. In case of doubt, the Principal has the right to decide whether a Conflict of Interests situation occurs or not.
- 14.4. If the Service Provider violates its obligation to avoid Conflict of Interests or fails to comply with it, it shall be liable to pay to the Principal a contractual penalty in the amount corresponding to thrice (3x) the total sum of fee according to the Assignment Order if the breach took place in relation with the performance of the assignment, but not less than 10 000,00 EUR (ten thousand *euros* 00 cents) for each breach of such obligation.

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

- 15.1. 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.
- 15.2. By giving a written notice 5 (five) business days in advance, but in case of an unannounced check without an advance notice, the Principal may carry out independent on-the-spot visits to the sites and premises where the activities implemented within the Agreement are or were carried out.
- 15.3. On-the-spot visits may be carried out either directly by the authorised staff of the Principal or by any other outside body authorised to do so on behalf of the Principal. Information provided in the framework of on-the-spot visits shall be treated on confidential basis. The Principal shall ensure that any outside body authorised shall be bound by the confidentiality obligation.
- 15.4. The Service Provider shall ensure that the performer of the on-the-spot visit or any other outside body authorised has 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 Agreement, 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.

#### **16. VISIBILITY REQUIREMENTS**

- 16.1. The Service Provider is obliged to comply with the following visibility requirements:

16.1.1. Any reports, brochures, other documents or information connected with Deliverables which the Service Provider produces and submits to the Principal or makes publicly available must include the following:

- (i) a funding statement stating that the Principal is the recipient of the funding from the CEF: "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 in all European Union official languages can be seen at the website: <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>;
- (iii) the European Union flag.

16.1.2. Requirements set in Clauses 16.1.1(i) - 16.1.1(iii) can be fulfilled by using the following logo:



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

If the Service Provider shall use this logo, the Service Provider 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;

16.1.3. The Service Provider is obliged to comply with the latest visibility requirements set by the European Union. For that purpose, the Service Provider shall follow the changes in the visibility requirements on its own. On the date of conclusion of this Agreement 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>.

16.1.4. Under this Agreement, the Principal hereby agrees and authorises the Service Provider to make a reference to the Principal's name and logo (trademark) in the marketing materials of the Service Provider, including on the Internet home page of the Service Provider, in capability statements, brochures, presentations, etc. in order to indicate the cooperation between the Service Provider and the Principal. The Parties hereby agree that this consent remains effective throughout the term of the Agreement and 5 (five) years after the termination or expiry of this Agreement.

## 17. TECHNICAL, LEGAL AND FINANCIAL CHECKS AND AUDITS

17.1. By giving a written notice five (5) business days in advance, but in case of an unannounced check or audit without an advance notice, the Principal may carry out technical, legal and financial checks and audits in relation to the implementation of the Agreement.

17.2. Checks and audits may be carried out either directly by the authorized staff of the Principal or by any other outside body authorised to do so on Principal's behalf.

17.3. Information and documents obtained in the framework of checks or audits shall be treated on a confidential basis. Principal shall ensure that its staff and any outside body authorised by the Principal be bound by the confidentiality obligation.

17.4. The Service Provider shall ensure that the performer of the check or audit or any other outside body authorised has 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.

## 18. GOVERNING LAW AND RESOLUTION OF DISPUTES

- 18.1. The rights of the Parties hereto and the validity, interpretation and implementation of this Agreement 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 Agreement, 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.
- 18.2. 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 Agreement.
- 18.3. If the dispute is not resolved by amicable consultation within thirty (30) calendar 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.

## 19. MISCELLANEOUS

- 19.1. The Agreement is made in English.
- 19.2. 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 Agreement or deriving from the applicable law.
- 19.3. Any amendments to the Agreement shall be valid if made in writing and signed by the respective authorized persons of both Parties. Any amendments must not make changes to the Agreement that might alter the initial conditions of the procurement procedure or result in unequal treatment of tenderers participated in this procurement.
- 19.4. If at any time, any clause of the Agreement becomes illegal, invalid or unenforceable, in any respect, under the applicable law, neither the legality, validity nor enforceability of the remaining provisions of the Agreement shall in any way be affected or impaired thereby. The Parties shall, in good faith, utilize their best efforts to replace any illegal, invalid or unenforceable clause with such that is legal, valid and enforceable and comes as close as possible to the invalid clause as regards its economic intent.
- 19.5. The Principal cannot be held liable for any damage caused or sustained by the Service Provider or a third party during or as a consequence of performing the Agreement, except in the event of the Principal's wilful misconduct or gross negligence.
- 19.6. For the purpose of execution of the Agreement, the Parties might transfer to each other certain personal data, such as data on employees of the Parties, data on suppliers, project stakeholders and their employees etc. The Parties acknowledge that for the purpose of the Agreement each of the Parties shall act as a controller.

The Party shall transfer the personal data to the other Party and such other Party shall process the personal data only for the purposes of execution of the Agreement and other such purposes as required by applicable laws.

The Parties agree that except where the Party has a separate legal basis for processing the personal data referred to in the applicable laws governing the protection of personal data, the Party shall not process the personal data for any other purpose.

Besides other obligations provided for in the Agreement, each of the Parties undertakes:

- 19.6.1 to process the personal data to the minimum extent necessary;
- 19.6.2 not to infringe any rights of the data subjects;
- 19.6.3 to implement and apply proper organizational and technical measures ensuring the compliance with the requirements of the law;
- 19.6.4 to ensure the compliance with other requirements of the law governing the protection of personal data.
- 19.7. The authorised representative of the Principal for Agreement fulfilment issues is [●].
- 19.8. The authorised representative of the Service Provider for Agreement fulfilment issues is [●].

- 19.9. In the event of any inconsistency between the terms of this Agreement and any of the Annexes, the text of this Agreement shall take precedence over any term set forth in any of the Annexes. In the event of any inconsistency between the terms of any of the Annexes, the order of precedence of the text of such Annexes shall be established according to the sequence of listing in Section 20 of the Agreement.
- 19.10. Both Parties agree that Procurement regulations shall be considered as integral part of the Agreement.
- 19.11. The Agreement is concluded in 2 (two) copies, one for each, all having the same legal effect.

## 20. ANNEXES

Annex A – Technical specification on [●] pages;

Annex B – Tenderers' Proposal (Proposal for Procurement Procedure) on [●] pages;

Annex C – Service Provider's Declaration on 2 (two) pages.

### SIGNATURES

#### Principal:

RB Rail AS

Uniform registration No 40103845025

Address: K.Valdemāra iela 8-7, Riga, Latvia, LV-1010

Account details:

Bank: Luminor Bank AS

SWIFT code: NDEALV2X

Account number: LV73NDEA0000084270995

#### Service Provider:

Uniform registration No

Address:

Account details:

Bank:

SWIFT code:

Account number:

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[●]

Management Board Member

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[●]

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[●]

Management Board Member