

FRAMEWORK AGREEMENT  
ON  
EXPERT SERVICES FOR RAIL BALTICA GLOBAL PROJECT  
FOR LOT NO [●]

between

RB Rail AS  
and  
Sabiedrība ar ierobežotu atbildību “EIROPAS DZELZCEĻA LĪNIJAS”  
and  
RAIL BALTIC ESTONIA OÜ  
and  
[●]

Contract registration number 8/201[●]-[●]  
CEF<sup>1</sup> Contract No INEA/CEF/TRAN/M201[●]/[●] [●]  
Procurement procedure identification No RBR 201[●]/[●]

Riga

Dated [●] [●] 202[●]

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<sup>1</sup> Grant Agreement under the Connecting Europe Facility

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FRAMEWORK AGREEMENT NO [●]  
ON THE PROVISION OF **EXPERT** SERVICES  
FOR LOT NO [●]

This Framework agreement (the "Agreement"), together with all Annexes thereto, is entered into in Riga, by and between:

RB Rail AS, a joint stock company registered in the Latvian Commercial Register, registration No 40103845025, legal address at Krišjāņa Valdemāra iela 8-7, Riga, LV-1010, Latvia (the "RB Rail"), represented by Management Board Member [●] and Management Board Member [●] acting on the basis of the Regulations on Representation Rights dated 25 May 2018,

and

Sabiedrība ar ierobežotu atbildību "Eiropas dzelzceļa līnijas", a limited liability company registered in the Latvian Commercial Register, registration No 40103836785, legal address at Gogoļa iela 3, Riga, LV-1743, Latvia (the "EDZL"), represented by RB Rail on the basis of [●],

and

RAIL BALTIC ESTONIA OÜ, a limited liability company registered in the Estonian Commercial Register, registration No 12734109, legal address at Endla 16 Tallinn Harjumaa 10142, Estonia (the "RB Estonia"), represented by RB Rail on the basis of [●], on the one side,

and

[●], a [●] company registered in the [●], registration No [●], legal address at [●] (the "Contractor"), represented by [●][●] acting on the basis of [●] on the other side

who are collectively referred to as the "Parties" and separately – as "Party", with RB Rail, EDZL and RB Estonia also collectively referred to as the "Principals" and separately – also as "Principal"

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) RB Rail has organised a procurement procedure "[●]" (identification No [●]) (the "Procurement Procedure");
- (A) RB Rail is acting as a Central Purchasing Body for EDZL and RB Estonia;
- (B) By issuing the Power of Attorney No [●], dated [●], RB Estonia and by issuing the Power of Attorney No [●], dated [●] EDZL have irrevocably authorised RB Rail to conclude this Agreement on behalf of RB Estonia and EDZL;
- (C) [OPTIONAL] By the Power of Attorney, dated [●], RB Estonia has fully approved its financial capability to, independently from other Principals, finance the provision of Services under this Agreement to RB Estonia for Assignments Orders that will be concluded between RB Estonia and the Contractor or Other Contractors;
- (D) [OPTIONAL] By the Power of Attorney, dated [●], EDZL has fully approved its financial capability to, independently from other Principals, finance the provision of Services under this Agreement to

EDZL for Assignments Orders that will be concluded between EDZL and the Contractor or Other Contractors;

- (E) In the Lot [●] of the **Procurement Procedure the Contractor's tender proposal (the "Contractor's Proposal"**; enclosed to this Agreement as **Annex G: Contractor's Proposal**) as well as the tender proposals of [●] ([●]) **other contractors (the "Other Contractors")** - [●], registration No [●], registered address at [●]; [●], registration No [●], registered address at [●]; [●], registration No [●], registered address at [●]; [●], registration No [●], registered address at [●] were selected for entering into framework agreement, with the Contractor and Other Contractors initial ranking as follows, as based on the results and highest amount of points received for their submitted proposals in the Lot [●] of the Procurement Procedure:

1. [●];
2. [●];
3. [●];
4. [●];
5. [●];
6. [●];
7. [●].

- (F) [OPTIONAL IF CONTRACTOR ENTERS INTO AGREEMENT FOR MULTIPLE LOTS] In the Lot [●] of the **Procurement Procedure the Contractor's tender proposal (the "Contractor's Proposal"**; enclosed to this Agreement as **Annex G: Contractor's Proposal**) as well as the tender proposals of [●] (four) **other contractors (the "Other Contractors")** - [●], registration No [●], registered address at [●]; [●], registration No [●], registered address at [●]; [●], registration No [●], registered address at [●]; [●], registration No [●], registered address at [●] were selected for entering into framework agreement, with the Contractor and Other Contractors initial ranking as follows, as based on the results and highest amount of points received for their submitted proposals in the Lot [●] of the Procurement Procedure:

1. [●];
2. [●];
3. [●];
4. [●];
5. [●];
6. [●];
7. [●].

- (G) This Agreement is co-financed from the Connecting Europe Facility (CEF), CEF Contract No INEA/CEF/TRAN/ M201[●]/[●], Activity [●], Action No: [●], furthermore considering the term of this Agreement it may also be co-financed from other CEF Contracts and/or Activities in the future.

## Section I. Definitions and Interpretation

- 1.1 *Definitions.* In this Agreement, unless the context requires otherwise, all Definitions shall have the meanings as described to such terms in accordance with *Annex A: Definitions and common terms*.

- 1.2 *Interpretation.*

- 1.2.1 The headings contained in this Agreement shall not be used in its interpretation.
- 1.2.2 References to the singular shall include references in the plural and vice versa, words denoting a gender shall include any other gender where the context requires, and words denoting natural persons shall include any other Persons.
- 1.2.3 References to a treaty, directive, regulation, law or legislative provision shall be construed, at any particular time, as including a reference to any modification, extension or re-enactment of the

respective treaty, directive, regulation, law or legislative provision at any time then in force and to all subordinate legislation enacted from time to time.

- 1.2.4 In the event there arises a conflict between provisions of the Agreement, the last provision to have been written chronologically shall take precedence.
- 1.2.5 Any reference in this Agreement to a Person acting under the direction of another Person shall not include any action that is taken in contravention of any Applicable Law or Standards, unless the relevant Person can demonstrate that an explicit instruction or direction was given to take the relevant action.
- 1.2.6 Unless expressly stated to the contrary, any reference in this Agreement to the right of consent, approval or agreement shall be construed such that the relevant consent, approval or agreement shall not be unreasonably delayed or withheld. The Parties agree and acknowledge as follows:
  - 1.2.6.1 neither Party shall be required to seek or apply for any consent, approval or agreement by any Person which would place the respective Party in breach of the Applicable Law or any Good Industry Practice; and
  - 1.2.6.2 nothing in this Agreement shall require the Principal to give or procure the giving of any consent or approval which would be contrary to the protection, safety and efficient operation of the Railway and the Project.
- 1.2.7 **A reference to “writing” shall include an e-mail transmission and any means of reproducing words in a tangible and permanently visible form.**
- 1.2.8 **The words “include” and “including” are to be construed without limitation.**
- 1.2.9 **Unless indicated otherwise, all references to “days” shall mean calendar days, but “Business Days” shall mean any day except any Saturday, any Sunday and any day which is a legal holiday in the Republic of Latvia.**
- 1.2.10 The words in this Agreement shall bear their natural meaning, except for any Definitions in accordance with *Annex A: Definitions and common terms*
- 1.3 **Order of Precedence.** In the event of any discrepancy or inconsistency between the documents forming part of this Agreement, the following order of precedence shall apply:
  - 1.3.1 this Agreement;
  - 1.3.2 Explanations (clarifications) of the Procurement Procedure documentation;
  - 1.3.3 Procurement Procedure documents with the annexes (including *Annex B: Technical Specifications*);
  - 1.3.4 Clarifications **of the Contractor’s Proposal**;
  - 1.3.5 **Contractor’s Proposal**;
  - 1.3.6 Respective Assignment Order;
  - 1.3.7 All other Annexes of the Agreement.

## Section II. Subject of the Agreement

- 2.1 **General subject.** This Agreement sets out the rights and obligations, terms and conditions that apply to the Parties of this Agreement where the Contractor is contracted by a Principal to provide Services to the Principal for the successful implementation of the Project. The Parties acknowledge and understand that even though RB Rail acts as a Central Purchasing Body for EDZL and RB Estonia, each of the Principals is fully and independently responsible for the diligent performance of its separate obligations under this Agreement in relation to the provision of Services and respective Assignment Orders, unless this Agreement explicitly provides otherwise.
- 2.2 **Scope and engagement.** The scope of Services to be provided by the Contractor to the Principals is described in detail in *Annex B: Technical Specification*. The procedure for the provision of Services is further elaborated in Section IV of this Agreement. For the purpose of clarity – each of the Principals are entitled to and will

separately and individually engage the Contractor and/or Other Contractors for the provision of Services via separate Assignments under the terms of this Agreement.

- 2.3 *Framework.* The purpose of the Agreement is to define the terms and conditions under which the Contractor will provide Services to the Principals on an **on-demand** basis. The Agreement is framework-based and does not impose an obligation whatsoever on the Principals to appoint the Contractor to provide Services nor does it guarantee any exclusive right to the Contractor to provide Services to the Principals.
- 2.4 *Acquisition of an Assignment.* This Agreement entitles the Contractor to participate in mini-competitions for an Assignment and/or be awarded the provision of the Assignment directly by a Principal at the full discretion of the latter. The Contractor is solely responsible for its costs and expenses incurred in relation to the participation in mini-competitions.
- 2.5 *Assignment Order.* For every Assignment, a separate Assignment Order (based on Draft of the Assignment Order included in *Annex C: Draft Assignment Order*) will be issued by the respective Principal and confirmed by the Contractor.
- 2.6 *Mutual agreement.* The Contractor undertakes to provide the Services only on the basis of a mutually confirmed Assignment Order, the conditions and provisions thereof being binding on both the Contractor as well as the respective Principal who issued and entered into the respective Assignment Order.
- 2.7 *Failure to perform.* If the Contractor refuses or fails to duly complete the Assignment after the Assignment Order has been confirmed in accordance with this Agreement, the Contractor is obligated to pay a contractual fine to the respective Principal at the latter's **request** in the amount corresponding to the double (2x) of the total sum of the Service fee according to the Assignment Order, **but no more than EUR 50'000 (fifty thousand euro)**.

### Section III. Term and value of the Framework Agreements

- 3.1 *On demand basis.* This Agreement as well as the other identical Framework Agreements concluded with the Other Contractors are on-demand based with no fixed work-load and/or fixed overall value.
- 3.2 *Total value.* The total value of all Framework Agreements concluded as a result of the Procurement Procedure (across all Lots of the Procurement Procedure) together is: **[●] EUR ([●])**, excluding VAT.
- 3.3 *Principals' discretion in procuring Services.* However, this total value does not in any way bind the Principals to procure Services through this Agreement or other Framework Agreements for the entirety of the total value or any other guaranteed amount.
- 3.4 *Term.* The term of the Agreement is **36** (thirty-six) months starting from the Effective Date, the Agreement can be prolonged for an additional **12** (twelve) months if the total value as specified in Clause 3.2 of this Agreement has not been fully exhausted.
- 3.5 *Expiry and termination.* After the expiry of the Agreement term or once the total value has been reached, no more new Assignment Orders can be concluded. The Agreement terminates once all of the existing Assignment Orders are fully completed by the Contractor and approved by the respective Principal and the Parties have fulfilled their contractual obligations arising out of this Agreement.

### Section IV. Appointment of an Assignment

- 4.1 *Selection of Contractor or Other Contractors.* In order to receive Services, the Principals will select the Contractor or one of the Other Contractors and conclude an Assignment Order. The Assignment will be allocated either through a **direct award** or by conducting a **mini-competition**.
- 4.2 *Discretion of the Principal.* The selection between the direct award or conduction of mini-competition will remain within the discretion of the Principal taking into consideration the specifics, urgency, nature, prior and similar Assignments and complexity of the particular Assignment to be performed and the planned fees for the provision of the particular Assignment, other interests of the respective Principal, etc. Nonetheless the Parties acknowledge that in each case where a Principal decides to implement a direct award instead of a mini-competition the Principal is required to formulate its reasoning in a written manner.
- 4.3 *Procedure for direct award.*

- 4.3.1 The Principal invites the Contractor or Other Contractor whose Proposal in the Procurement Procedure Lot No [●] obtained the highest amount of points to implement an Assignment by sending a request **for Assignment (the "Request for Assignment")** (the order of preference may be subject to change as per Clause 4.10);
- 4.3.2 After receiving a Request for Assignment, as soon as possible but not later than within **1 (one)** Business Day, unless otherwise specified in the Request for Assignment, the Contractor shall respond by stating its availability to implement the Assignment by sending to the respective Principal a proposal to implement the Assignment. The proposal to implement an Assignment should be based on the proposed price (hourly rate) of the Contractor's **Proposal**.
- 4.3.3 The Principal accepts the **Contractor's** proposal to implement an Assignment by sending a request to draft the Assignment Order to the Contractor by email. The Contractor should draft the specific Assignment Order based on the information laid down in the specific Request for Assignment and its own proposal to implement an Assignment 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 Days after receiving the request to draft it. The Assignment Order is first signed by the Contractor and then by the respective Principal.
- 4.3.4 After the corresponding Request for Assignment is accepted by the Contractor and the proposal to implement an Assignment is accepted by the Principal, the conditions set in the Assignment Order become binding upon the respective Parties and the particular Assignment has to be executed in accordance with its specific requirements as well as the general provisions set out in this Agreement.
- 4.3.5 In case the Contractor rejects the Request for Assignment or fails to respond within the required time period, the Principal reserves the right to send a Request for Assignment to the Other Contractor whose Proposal has obtained the second highest score in the Procurement Procedure Lot No [●] or to invite the remaining Other Contractors to a mini-competition. In case the Other Contractor whose Proposal has obtained the second highest score in the Procurement Procedure Lot No [●] rejects the Request for Assignment or fails to respond within the required time period, the Principal invites the remaining Other Contractors to a mini-competition, or if there is only one more Other Contractor – the Principal has right to send a Request for Assignment.

#### 4.4 *Procedure for Mini-competition.*

- 4.4.1 The Principal invites the Contractor as well as all Other Contractors to implement an Assignment by sending a **request for proposal (the "Request for Proposal")** specifying the particular task, interests of the respective Principal or, timeline for the execution of the Assignment and any other relevant information;
- 4.4.2 After receiving the Request for Proposal, the Contractor will, within **1 (one)** Business Day, unless otherwise specified in the Request for Proposal, respond by sending its proposal to implement an Assignment. Failing to respond to the Request for Proposal within the required time period will be considered as a rejection to participate in the respective mini-competition;
- 4.4.3 Mini-competition proposals received from the Contractor and all Other Contractors will be evaluated and ranked by the Principal. The most economically advantageous proposal will be awarded with the implementation of the particular Assignment. If the proposals received from the Contractor/Other **Contractor's exceed the planned budget or are otherwise untenable to the respective** Principal, the Principal reserves the right to discontinue the mini-competition;
- 4.4.4 The respective Principal will choose the winner(s) of the mini-competition for the provision of the particular Assignment by comparing and evaluating the received proposals based on the criteria specified in the specific Request for Proposal that will follow these general criteria (listed in no particular order and containing no specific value):
  - 4.4.4.1 Amount of fee and time necessary for the provision of the particular Assignment;
  - 4.4.4.2 Experience and availability (considering workload or manpower invested by the respective experts in already committed and ongoing Assignments) of the respective staff of the Contractor or subcontractors designated for the provision of the particular Assignment;
  - 4.4.4.3 Potential quality of the provision of the particular Assignment, taking into account, inter alia, the estimation of the potential workload proposed by the Contractor to be invested for the

provision of the particular Assignment by comparing it with workload already spent on similar Assignments by the Contractors within the same field of expertise if significant differences are identified;

- 4.4.4.4 Cooperation experience with the respective Contractor in previous Assignments based on the KPI mentioned in Clause 4.10 of this Agreement.
- 4.4.5 The Principal shall inform the Contractor and all Other Contractors on the results of each mini-competition;
- 4.4.6 The Contractor or Other Contractor with the most economically advantageous proposal shall be invited to sign the Assignment Order. The Contractor if it is invited to sign the Assignment Order should then draft the specific Assignment Order based on the information laid down in the specific Request for Proposal and its own proposal in the mini-competition as a response to the Request for Proposal and align it with the Principal by e-mail. Aligned Assignment Order should be signed and sent to the pent workload Principal as soon as possible but not later than within the five (5) Business Days after receiving the request to draft it. The Assignment Order is first signed by the Contractor and then by the respective Principal;
- 4.4.7 After the Request for Proposal to implement an Assignment (including corresponding Assignment Order) is accepted by the Contractor, the conditions and provision set out in the Assignment Order and the proposal of the mini-competition will become binding upon the Parties of the particular Assignment and the particular Assignment has to be executed in accordance with its specific requirements as well as the general provisions set out in this Agreement.
- 4.5 *Details of a Request for Assignment and Request for Proposal.* Each Request for Assignment and Request for Proposal will include details of the Services to be carried out by the Contractor, i.e. description and scope of the Assignment, the Principal who initiated the respective Assignment, estimated workload of the Contractor, starting date, deadline etc.
- 4.6 *Effects of the KPI results.* The Principal reserves the right not to directly award the Contractor with an Assignment Order nor to invite the Service Provider to participate in a mini-competition based on the KPI results of the Contractor as specified in Clause 4.10 of this Agreement.
- 4.7 *General duty of participation.* **The Contractor has a right to reject the Principal's** Request for Assignment or Request for Proposal only in exceptional cases related to the current workload of the Contractor in relation to other Assignments in progress, or when the Contractor envisages that the implementation of a particular Assignment would result in a conflict with the requirements set in this Agreement, or in case of a conflict of interest as stated in Clause 4.9 of this Agreement. The decision of the Contractor to reject **the Principal's** Request for Assignment or Request for Proposal shall be provided in writing by stating the reasons for such decision in sufficient detail.
- 4.8 *Additional information.* The Contractor has the right to request reasonable explanatory information from the Principal regarding the specifics of provision of an Assignment. If the Principal finds it necessary to respond, the Principal has the obligation to disclose information provided to the Contractor also to Other Contractors if such information **may influence the contents of the Contractor's bid** in the respective mini-competition.
- 4.9 *Conflict of interests.* Considering that the Contractor may, within the scope of this Agreement provide, individual Services to the each of the Principals in accordance with the respective Assignment Orders and the fact that the Principals are Global Project stakeholders with various different competencies and areas of responsibility which may sometimes lead to a constructive discussion on the best possible approach for the Global Project, as a result of which the same Contractor shall be generally barred from executing the same or similar Assignment for more than one Principal of this Agreement so as not to create a situation of conflict on interests. The aforementioned constraint will not apply in cases where the invitation to an Assignment is issued jointly by multiple Principals, and also in case where the inviting Principal has expressly waived this constraint in the invitation to an Assignment.
- 4.10 *KPI's.* The Principals will review the quality of each completed Assignment and the cooperation with the Contractor and Other Contractors in accordance with this procedure:
  - 4.10.1 In every case where the Assignment has not been implemented in full accordance with the concluded Assignment Order i.e. the Assignment has been delayed due to factors relating to Contractor/Other Contractors or the Assignment has been completed in unsatisfactory quality, the Assignment has not been completed or only partly completed etc., the respective Principal in addition to other measures



available in this Agreement shall immediately issue a written notice detailing the characteristics of the situation to the all other Principals. The aforementioned notice shall be deemed as a negative KPI notice;

- 4.10.2 Following the reception of a negative KPI notice, the respective Contractor/Other Contractor shall not be invited to participate in the next mini-competition organised by any of the Principals and shall also not be considered for the award for the next direct award by any of the Principals. This restriction is not limited to the specific Procurement Procedure Lot where the negative KPI notice was issued but it is applied to Framework Agreements concluded as a result of all Lots of the Procurement Procedure, provided that the Contractor/Other Contractor provides its services across multiple Lots of the Procurement Procedure.
- 4.10.3 Additionally, a Contractor/Other Contractor who has received a negative KPI assessment shall be temporarily for a period of 3 (three) months demoted by a position in the order of preference for the obtention of a direct award (i.e. the Contractor/Other Contractor whose Proposal has obtained the highest score in the Procurement Procedure Lot No [●] shall temporarily lose its "first" position and become "second" while the Contractor/Other Contractor whose Proposal has obtained the second highest score in the Procurement Procedure Lot No [●] shall move from "second" to "first" choice etc). In such circumstances both the "first" and "second" ranked Contractor/Other Contractors shall be notified of the change in ranking and preference for the respective Lot of the Procurement Procedure.
- 4.10.4 Communication between the Principals in relation to the KPI procedures shall be done electronically and also through an electronic register available at [Sharepoint] that will be provided and maintained by RB Rail, but each Principal shall be obliged to sufficiently supplement the register with information stipulated in Clause 4.10.1 or other information as required.

## Section V. General terms and conditions

- 5.1 *Engagement.* The Principals hereby engage the Contractor to provide and perform the Services for the purposes of the Project, as described in this Agreement and according to the specifications contained *Annex B: Technical Specification* to this Agreement as well as respective Assignment Orders, on the basis of awarded Assignments, and the Contractor hereby accepts such engagement. The Services shall result in the provision to the Principal of the Deliverables as identified in each Assignment Order.
- 5.2 *Co-Operation of the Parties.* The Parties shall cooperate with one another to fulfil their respective obligations under this Agreement. Parties shall endeavour to maintain good working relationships among all key personnel engaged toward provision of the Services.
- 5.3 *Licensing Requirements.* By signing this Agreement, the declaration is made by the Contractor that the Contractor is professionally qualified, registered, and licensed to practice in the Republic of [COUNTRY].
- 5.4 *General Obligations of Contractor.* The Contractor shall be responsible for the professional quality, technical accuracy, and coordination of all concepts, programming, reports, designs, drawings, specifications, and other services furnished under this Agreement. The Contractor shall have an obligation, without additional compensation of any kind, to correct or revise any errors, deficiencies, or omissions in concepts, programming, reports, designs, drawings, specifications, estimates, and other services rendered hereunder and forming part of the Services.
- 5.5 *Acceptance Not a Waiver.* **The Principal's review, approval, acceptance, or payment for the Assignments forming part of the Services shall not be interpreted or construed to operate as a waiver of any right or cause for action arising out of the Contractor's performance of any Assignments under this Agreement. The Contractor shall remain liable to the Principal as allowed under this Agreement and under Applicable Law for any and all costs and/or Damages caused by the Contractor's negligent performance of any of the Assignments and Services furnished under this Agreement.**
- 5.6 *Communication between the Parties.*
- 5.6.1 Communication under the Agreement (e.g. information, requests, submissions, formal notifications, etc.) must:
- 5.6.1.1 be carried out in English;
- 5.6.1.2 be made in writing (including electronic form);

- 5.6.1.3 be carried out between the authorised persons as specified in Clause 5.6.7 or additional specific contact persons as laid down in the corresponding Assignment Order;
- 5.6.1.4 **bear the Agreement's and Assignment Order's number.**
- 5.6.2 During the implementation of the Assignment Order, the communication via e-mail shall be executed between contact persons indicated in the corresponding Assignment Order. Additionally, all copies of those **e-mail message shall be sent to the Parties' e-mail** addresses specified in the Agreement.
- 5.6.3 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 confirmation that a message (with all its contents) sent via e-mail was received.
- 5.6.4 Assignment Orders, notices, declarations and invoices shall be deemed received:
- 5.6.4.1 if delivered by hand, on the first Business Day following the delivery day;
- 5.6.4.2 if sent by post, on the fifth Business Day after the date of posting;
- 5.6.4.3 if sent by e-mail, the same Business Day if sent prior to 17:00 **o'clock** and the next Business Day if sent after 17:00 **o'clock** (Latvian time applies).
- 5.6.5 If the final day of a time period referred to in this Agreement is Saturday, Sunday or a legal holiday in the Republic of Latvia, the following Business Day shall be considered the final day of the respective period.
- 5.6.6 The Parties agree that information may be exchanged electronically over the internet.
- 5.6.7 For the purposes of this Agreement:
- 5.6.7.1 The authorised representative of RB Rail for Agreement fulfilment issues and Assignment Order procedures (authorised to issue Requests for Assignment and Requests for Proposal, sign the Deed of Acceptance) is [●], e-mail [●], phone [●];
- 5.6.7.2 The authorised representative of EDZL ([●]) for Agreement fulfilment issues and Assignment Order procedures (authorised to issue Request for Assignment and Request for Proposal, sign the Deed of Acceptance) is [●], e-mail [●], phone [●];
- 5.6.7.3 The authorised representative of the RB Estonia ([●]) for Agreement fulfilment issues and Assignment Order procedures (authorised to issue Requests for Assignment and Requests for Proposal, sign the Deed of Acceptance) is [●], e-mail [●], phone [●];
- 5.6.7.4 The authorised representative of the Contractor ([●]) for Agreement fulfilment issues and Assignment Order procedures (authorised to respond to Requests for Assignment and Requests for Proposal, sign the Deed of Acceptance) is [●], e-mail [●], phone [●].
- 5.6.8 In addition to the contact information specified in Clause 5.6.7 of this Agreement the Principals agree that information regarding Assignment Order conclusion processes (information about the conclusion of an Assignment Order, Assignment fees, chosen Contractor etc.) shall also be carbon copied to **RB Rail's designated** e-mail [●] for the purposes of management of this Agreement.
- 5.6.9 The Principals agree that information regarding the conclusion of an Assignment Order concluded by RB Estonia and EDZL shall be provided to RB Rail no later than within three (3) Business Days after the conclusion in order for RB Rail to prepare the necessary publications where necessary.

## Section VI. Responsibilities of Principals

- 6.1 *Supply of Information.* Unless otherwise provided under this Agreement, the Principals shall, in a timely manner, provide to the Contractor any information regarding requirements and parameters of the Project, as may reasonably be requested by the Contractor for the purposes of the Services and Assignments, provided that the Principal is in possession of such information.

- 6.2 *Review of Documentation.* The Principal shall examine Documentation as may be submitted by the Contractor for review by the Principal toward partial completion of a particular Assignment and, upon request of the Contractor, shall render decisions and opinions pertaining thereto.
- 6.3 *Decisions.* On all matters properly referred to it in writing by the Contractor the Principal shall give its decision in writing so as not to delay the provision of Services and a particular Assignment and within a reasonable time. The Principal is not limited to provide any answer and information to the Contractor by e-mail.
- 6.4 *Accounting and Auditing Services.* The Principals shall furnish accounting and auditing services as may be necessary for the provision of Services as the Principals may require to ascertain how and/or for what purposes the Contractor has used the funds paid under the terms of this Agreement.
- 6.5 *Action Upon Becoming Aware of Defects.* In the event the Principal observes or otherwise becomes aware of any error, fault, omission, or defect in the Services or Assignment or non-conformance of any action forming part of the Services or Assignment with the Deliverables, Documentation or information, the Principal shall give prompt notice thereof to the Contractor. The Contractor shall have the obligation to correct such error, fault, omission, or defect in the Services or Assignment or non-conformance of any action forming part of the Services or Assignment.

## Section VII. Responsibilities of Contractor

- 7.1 *Standard of Performance.* The Contractor shall perform the Services as expeditiously as is consistent with professional skill and care, orderly progress of the Services and each Assignment, and in accordance with the conditions set forth in *Annex B: Technical Specification*.
- 7.2 *Deliverable Requirements.* The Contractor may be required by a Principal to provide copies of prints or electronical editions of the Deliverables, as per the specific conditions of each Assignment Order.
- 7.3 *Obligation to Act in Accordance with Principal's Comments.* In performing the Services and Assignments, the Contractor shall have due regard to any comments made by the Principal in connection with any review of the Documentation or information furnished by the Principal and shall provide reasons to the Principal where it does not take into account any such comments.
- 7.4 *Duty of Care and Exercise of Authority.* The Contractor shall:
- (a) in performing its obligations under this Agreement, exercise reasonable professional skill, diligence and care as may be expected of a properly qualified and competent person carrying out services of a similar size, nature, type and complexity;
  - (b) ensure that its personnel are properly qualified and competent in accordance with the relevant Standards;
  - (c) ensure that [specific documents as per respective Services] and other documents and information required to be prepared or submitted by the Contractor under this Agreement conform to Good Industry Practice generally acceptable at the time of submission of such [specific documents as per respective Services], documents and information;
  - (d) at all times during the term of the Services, ascertain and comply with all Applicable Laws and Good Industry Practice of the Republic of Latvia;
  - (e) comply, where applicable, with any reasonable requirements of the Principal not otherwise provided for in this Agreement;
  - (f) ensure that [specific documents, if applicable], and all documents and information is furnished in accordance with Good Industry Practice, and using conventional industry quality control methods; and
  - (g) notify the Principal of any Defects in accordance with Clause 10.3 of this Agreement as soon as such Defects are identified by the Contractor.
- 7.5 *Maintenance of Records.* During the term of the Services and for a period of ten (10) years from expiration or termination of this Agreement for any reason whatsoever, the Contractor shall keep and maintain clear, adequate and accurate records and Documentation evidencing, to the reasonable satisfaction of the Principals, that the Services have been and are being carried out in accordance with the Standards. In case of on-going audits, appeals, litigation or pursuit of claims concerning the grant, including in the case of

correction of systemic or recurrent errors, irregularities, fraud or breach of obligations, the records shall be kept and maintained longer.

7.6 *Access to Documentation.* At all times during the term of the Services, the Principals shall have access to all Documentation. This access shall be continuing and survive the termination of this Agreement for either cause or convenience. The Documentation shall be kept to be accessed in a generally recognized format for a period of for a period of 10 (ten) years from the date of expiration or termination of this Agreement. All records forming part of the Documentation shall be available to the Principals' auditor, or expert appointed by the Principals during the period of time specified in accordance with this Clause 7.6.

7.7 *Right to Sub-Contract and Staff.*

7.7.1 In carrying out the Services, the Contractor may only rely on the services of those Approved Sub-Contractors and Staff listed in *Annex D: List of approved Sub-Contractors and Staff*, as such list may, from time to time, be modified or supplemented in agreement with the Principals and in accordance with the terms and subject to the criteria contained in the applicable Public Procurement Law of the Republic of Latvia. Parties shall specify the name, contact details and legal representative(s) of each Approved Sub-Contractor as of the Effective Date in *Annex D: List of approved Sub-Contractors and Staff*. The Contractor shall have an obligation to notify the Principals in writing of any changes to Sub-Contractor or Staff data specified in *Annex D: List of approved Sub-Contractors and Staff* occurring during the term of this Agreement and of the required information for any new Sub-Contractors or Staff member which it may subsequently engage toward provision of the Services.

7.7.2 Pursuant to the Public Procurement Law of the Republic of Latvia the Contractor shall obtain prior written consent of the Principals for the replacement of each Sub-contractor or each Staff member, or each key personnel indicated in *Annex D: List of approved Sub-Contractors and Staff* and involvement of additional Sub-contractors or Staff members, or key personnel.

7.7.3 Review and evaluation of the replacement of Sub-contractors or Staff shall be carried out, and the consent or refusal to give consent shall be rendered by the Principals in accordance with Article 62 of the Public Procurement Law of the Republic of Latvia.

7.7.4 The Contractor shall not involve employee and/or staff (including but not limited to key office-holders, key personnel (including but not limited to [●]) who have a criminal record, in the implementation of the Agreement.

7.7.5 The Contractor shall submit to the Principals 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 Contractor shall provide a brief (concise) description of duties towards the implementation of the Agreement of the persons, and, if requested by the Principals.

7.7.6 The Principals have a right to demand dismissal of such a natural person non-compliant with the security clearance requirements stipulated in this Clause 7.7 at the Principals' sole discretion on the basis of the Principals' written request for dismissal. Parties agree that such Principals' decision is incontestable.

7.7.7 The Contractor 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 Principals have demanded his/her dismissal according to Clause 7.7.6 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 of the Principals. The Contractor 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.

7.7.8 In case mentioned in Clause 7.7.6 the Contractor is obliged:

7.7.8.1 to immediately replace the dismissed person according to Section 62 of the Public Procurement Law of the Republic of Latvia and the Agreement, and

7.7.8.2 to comply with the Principals' written instructions pursuant to this Clause 7.7 and not to challenge these instructions, and

7.7.8.3 to inform the Principals about dismissal or replacement proceedings pursuant to this Clause.

7.7.9 In case if the immediate dismissal or replacement of the dismissed natural person noncompliant with the security clearance requirements stipulated in this Clause 7.7 results in the unreasonable increase of the costs towards the Contractor, the Contractor shall immediately inform the Principals about this fact in written and the Parties shall agree upon the conditions of the provision of the Agreement or Assignment.

7.7.10 **The Contractor's non-compliance** with the security clearance requirements stipulated in this Clause 7.7, the Principals' instructions towards the Contractor regarding these security clearance requirements or other provisions of this Clause 7.7 constitutes a material breach (breach of a material term or condition) of the Agreement.

7.8 *Responsibility for Performance by Sub-Contractors and Staff.* The Contractor shall retain the complete responsibility for the proper performance of all of its obligations under this Agreement, and any act, failure to act, breach or negligence on the part of any of its Approved Sub-Contractors and Staff shall, for the purposes of this Agreement, be deemed to be the act, failure to act, breach or negligence of the Contractor.

7.9 *No Conflicting Activity.* Except with the Principals' **knowledge and express written permission, the Contractor** shall not engage in any activity, or accept any employment, other agreement, interest, or contribution that would reasonably appear to compromise the Contractor's **professional judgment and** performance with respect to the provision of Services and/or the Project. In performing the Services, the Contractor shall take all necessary measures to prevent any situation where the impartial and objective implementation of the Services is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest.

7.10 *Attendance of Meetings.* To the extent necessary to ensure smooth and efficient provision of the Services, the Contractor shall, at the Principal's request, hold and/or attend meetings with any persons. The Contractor shall arrange Assignment's communication's planning meetings as described in the particular Assignment Order, at which appropriate personnel of the Contractor and the respective Principal shall be present. The Contractor shall record all meetings (also online meetings) between Parties and prepare meeting reports within five (5) Business Days after each meeting. All meeting reports shall be harmonized by the respective Principal.

7.11 *Compliance with Laws.* The Contractor shall review the Applicable Laws that is applicable to the provision of Services. In carrying out any activities forming part of the Services, the Contractor shall, at all times, ensure compliance with requirements imposed by supra-national and/or governmental authorities having jurisdiction over the Project.

7.12 *Information Furnished by Principal.* The Contractor shall be entitled to rely on the accuracy and completeness of information furnished by the Principals. The Contractor shall provide prompt written notice to the Principal if the Contractor becomes aware of any errors, omissions, or inconsistencies in the information provided by the Principal or in the preparation or provision of Services, Assignments or information.

7.13 *Certain Negative Covenants.* In performing the Services, the Contractor undertakes not to procure goods or services of any kind from any person meeting any of the following criteria:

(a) the Person who is a member of the Management Board or Supervisory Board of an Approved Sub-Contractor or procurator of an Approved Sub-Contractor, or is authorised to represent or act on behalf of an Approved Sub-Contractor with respect to any activity related to any subsidiary company of such Approved Sub-Contractor, and such Person has been accused of commitment of any of the following criminal offences pursuant to an order issued by a public prosecutor or was found to be guilty of commitment of any of the following criminal offences in accordance with a court judgment that has entered into legal force, is non-disputable and non-appealable:

- (i) formation, organisation, leading or involvement in the criminal organisation or another criminal formation, or participation in the criminal acts of such organisation or formation;
- (ii) accepting a bribe, giving of a bribe, misappropriation of a bribe, intermediation toward giving or taking of a bribe, acceptance of a prohibited benefit or commercial bribing;
- (iii) fraud, misappropriation of funds or money laundering;
- (iv) tax evasion or evasion of payments equivalent to tax;

- (v) terrorism, financing of terrorism, instigation of acts of terrorism, terrorist threats or recruitment and training of a person with the aim of committing acts of terrorism;
- (vi) human trafficking;
- (vii) avoidance of tax and other similar payments;
- (b) the Person has, by decision of a competent authority or judgment of a court which has entered into legal force and is non-disputable and non-appealable, been found guilty of violation of labour law in any of the following manners:
  - (i) employment of one or more citizens or nationals of countries who are not citizens or nationals of a Member State of the European Union and are residing in the territory of a Member State of the European Union unlawfully;
  - (ii) employment of one or more persons without having entered into written employment agreement with such persons, or without having submitted an employee declaration with respect to such persons within a period of time stipulated in accordance with applicable laws and regulations applicable to persons that enter into salaried employment;
- (c) the Person who, by decision of a competent authority or in accordance with judgment of a competent court which has entered into legal force, is non-disputable and non-appealable, has been held guilty of violation of applicable rules of competition law manifested as a vertical agreement aimed at restricting the ability of one or more purchasers to determine the resale price, or a horizontal cartel agreement, with the exception of instances where the relevant authority, upon having established the fact of violation of applicable rules of competition law, has discharged the candidate or participant in a tender offer from imposition of a fine or has reduced the amount of fine as a part of co-operation leniency programme;
- (d) the Person who has insolvency proceedings initiated against it (except in the circumstances where a bailout or a similar set of measures are applied within the insolvency proceedings and are aimed at preventing the bankruptcy and restoring the debtor back to solvency, in which case the Contractor shall evaluate the possibility of participation by such Person in performing the Services), economic activity of the Person has been suspended or discontinued, bankruptcy proceedings have been initiated against the Person or the Person is subject to a liquidation;
- (e) the Person has unpaid tax indebtedness in the country where the procurement is organised or in the country where the Person is registered or permanently residing as a tax payer, including the indebtedness with respect to State social insurance contributions, in the total amount exceeding EUR 150 in each individual country; in such case, the Contractor can, within its sole discretion, prompt the Approved Sub-Contractor to pay or discharge all outstanding tax indebtedness within 10 (ten) Business Days and, upon such payment or discharge, allow the Person to continue performance of the Services;
- (f) the Person is an entity registered offshore;
- (g) International or national sanctions or substantial sanctions by the European Union or the North Atlantic Treaty Organization Member State affecting the interests of the financial and capital market has been imposed to the Person and such sanctions can affect the execution of the Contract; and
- (h) any of the above-mentioned criteria shall apply to all members of a group of persons if the Person is a group of persons.

7.14 *Visibility Requirements.* At all times during performance of the Services, the Contractor undertakes to comply with each of the following requirements:

- (a) any report, brochure, document or information related to the Services conducted by the Contractor hereunder or any other Person, or which the Contractor makes publicly available shall include each of the following:
  - (i) a funding statement which indicates that the Services are financed from CEF funds substantially in the following form: “Co-financed by the Connecting Europe Facility of the European Union”;
  - (ii) with respect to printed materials, a disclaimer releasing the European Union from liability with respect to any contents of any distributed materials substantially in the form as follows: **“The sole responsibility of this publication lies with the author. The European Union is not responsible for any use that may be made of the information contained therein”. The disclaimer in all official**

languages of the European Union can be viewed on the website <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>; and

- (iii) the flag of the Council of Europe and the European Union.
- (b) the requirements set forth in Clauses 7.14(a)(i) and 7.14(a)(iii) of this Agreement can be complied with by means of utilizing the following logo:



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

in the event the Contractor decides to utilize the above logo, the Contractor shall ensure that the individual elements forming part of the logo are not separated (the logo shall be utilized as a single unit) and sufficient free space is ensured around the logo; and

- (c) in order to comply with the latest applicable visibility requirements established by the European Union, the Contractor shall regularly monitor changes to visibility requirements; as of the Effective Date, the visibility requirements are available for review on the webpage <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>.

7.15 *Reporting.* The Contractor shall, in a format and at intervals to be agreed with the Principal:

- (a) provide the Principal with regular reports and status updates on the progress of the Services or an Assignment.
- (b) report on any changes to the Annexes of this Agreement, which the Contractor considers may be needed in order to fulfil the objectives set out in the Agreement; and
- (c) use reasonable endeavours to provide any other information and status updates as may be reasonably requested by the Principal at any time.

In order to avoid any doubt, any change to the above-mentioned documentation can be made only pursuant to this Agreement, if agreed by Parties, and, if the proposed changes are compliant with the Public Procurement Law of the Republic of Latvia.

## **Section VIII. Representations and Warranties**

8.1 *Certain Representations and Warranties by Parties.* Each Party represents and warrants to the other Parties, as of the Effective Date, as follows:

- (a) it has entered into this Agreement with the aim of attaining all of the objectives and performing in all material respects all of the obligations and commitments herein set forth;
- (b) it has entered into this Agreement without having any intention or goal whatsoever to violate the Applicable Law, its own Articles of Association, other constitutional documents, laws or agreements of any kind to which it is a party;
- (c) it is not bankrupt and is not the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, it is not in an arrangement with creditors, where its business activities are suspended, or it is in any analogous situation arising from a similar procedure under the laws of the country where it is registered and submits its tax accounts; and
- (d) it has entered into this Agreement of its own volition and in good faith.

8.2 *Certain Representations and Warranties by Contractor.* The Contractor represents and warrants to the Principals, as of the Effective Date, as follows:

- (a) it has all requisite qualification, skills and competence to perform the Services on the terms and conditions of this Agreement which are no less favourable than the terms and conditions of service



identified by the Contractor in any document submitted by the Contractor to RB Rail as part of the **Procurement Procedure and on the terms of the Contractor's Proposal**;

- (b) it holds all requisite licenses, permits, approvals and consents necessary to enable performance by the Contractor of the Services according to the specifications contained in this Agreement and *Annex B: Technical Specification*;
- (c) it has all requisite ability to ensure the highest quality of the Services;
- (d) it will assign competent and duly qualified personnel to carry out the Services and particular Assignments set out in this Agreement according to the highest professional Standard and Good Industry Practice;
- (e) it is not deemed to be a person associated with the Principals for the purposes of Applicable Law;
- (f) it has not been registered as a VAT payer in the Republic of [COUNTRY] [IF APPLICABLE];
- (g) it is compliant with all of the requirements of the **Contractor's Declaration contained in Annex F: Declaration of Contractor** and will continue to be compliant with all such requirements during the term of this Agreement;
- (h) the income mentioned in this Agreement will not derive through permanent establishment or fixed base maintained by the Contractor in the Republic of Latvia. The Contractor 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 Contractor. Otherwise the Principal will withhold withholding tax at the rate of 20% from the Fee and payments made to the Contractor. The Principal is entitled to make any deductions from **the payments due to the Contractor if the Contractor doesn't comply with this provision [IF APPLICABLE]**; and
- (i) immediately arrange for engagement of supplemental personnel when necessary at the cost of the Contractor. For the avoidance of any doubt, the engagement of supplemental personnel shall not require approval by the Principals, provided that these personnel comply with the Applicable Law, including the Public Procurement Law of the Republic of Latvia, and this Agreement.

## Section IX. Fee and Payment

- 9.1 *Fee.* In consideration of provision of the Services, the Principal issuing the respective Assignment Order undertakes to pay the Contractor a Fee in the total amount set forth in accordance with the Assignment Order **(the "Fee")** which can be split into separate instalments or a single lump sum payment and be payable by the Principal issuing the respective Assignment Order to the Contractor according to a schedule set forth in the particular Assignment Order. It is acknowledged and agreed by the Parties that the Fee shall include all Costs and expenses incurred by the Contractor and Approved Sub-Contractors toward performing the particular Assignment. The Fee specified in accordance with this Section IX excludes value added tax that will be charged at the rate applicable in accordance with Applicable Law at the time of invoicing.
- 9.2 *Invoicing.* According to the particular Assignment Order and following each Completion Date and/or Final Acceptance Date, depending on the characteristics of the particular Assignment, provided that the respective Principal has accepted/approved the particular Deliverable of the Assignment which the invoice related to, the Contractor shall deliver to the respective Principal an invoice specifying the amount of the Fee payable and the period of time with respect to which the Fee is payable. In the event the respective Principal objects to payment of any amount claimed by the Contractor in the invoice, notice in the form chosen by the respective Principal to this effect shall be given by the respective Principal to the Contractor not later than on the due date for the respective payment under this Clause 9.2. This notice of objection shall state the amount to be withheld, the grounds for withholding the payment and the basis on which that amount is calculated. Unless such notice of objection is made by the respective Principal, the amount to be paid is that stated in the invoice which shall become due and payable in accordance with this Agreement. For the avoidance of any doubt, the respective Principal shall not be required to pay any amount under this Agreement with respect to any part of the Services that have not been accepted by the respective Principal in accordance with Clauses 10.4, 10.5, **Error! Reference source not found.** and 10.8 of this Agreement. Furthermore, respective Principal



shall not be required to pay any amount under this Agreement for the Services rendered under Assignment Orders which the respective Principal did not issue.

- 9.3 *Payment.* Subject to the provisions of Clause 9.2, the Principal reserves the rights to make the payments to the Contractor with set-off, retention, counterclaim, abatement or other deduction of any kind that arises from this Agreement and from the obligations of the Contractor provided herein (i.e. in cases of accrued contractual penalty amounts, in case if the Principal **haven't received residence certificate as stipulated in this Agreement**, etc.). If the Principal uses the right to make the payments to the Contractor with set-off, retention, counterclaim, abatement or other deduction of any kind, then the Principal so notifies to the Contractor no later than on the due date of the respective payment stating the amount, the grounds and the basis on the Principal uses its right to set-off, retention, counterclaim, abatement or other deduction or other right. Invoices shall be paid within thirty (30) days after the date on which the Principal received a properly prepared invoice on the accepted Deliverable and signed Assignment Order. Should the Principal receive an improperly prepared invoice the Principal shall notify the Contractor in writing. For the avoidance of any doubt, the Principal shall not be required to pay any amount with respect to any invoice in the absence of a Deed of Acceptance duly signed by the Principal and the Contractor or, with respect to the final payment of the Fee to be effected under this Agreement, the Final Acceptance Note duly signed by respective Parties of an Assignment, taking into account that the Services in general and each particular Assignment specifically shall be accepted by the Principal in accordance with Clauses 10.4, 10.5, **Error! Reference source not found.** and REF\_Ref516214377 \r \h 10.8 of this Agreement.
- 9.4 *Costs and Commissions.* Each Party shall bear its own costs, fees, commissions and expenses incurred in connection with the transfer of any funds under this Agreement to the other Party.
- 9.5 *Compliance with Tax Obligations in [COUNTRY].* It is acknowledged and agreed by the Parties that the Fee shall include all taxes and duties payable by the Contractor in the consequence of provision of the Services or particular Assignment, **except value added tax (the "VAT")**. **The Contractor shall, at the sole cost and expense** of the Contractor, comply with the obligation to pay all taxes and duties relevant to the provision of the Services in [COUNTRY] and in accordance with Applicable Law of [COUNTRY]. In addition, the Contractor shall assume all risks associated with the payment or obligation to pay such taxes and duties, if any. The Contractor assumes all risks associated with the possible increase in the amount of the Fee arising as a result of the obligation of having to pay any such taxes or duties.
- 9.6 *Invoice.* **The Contractor's invoices shall contain the following Contractor's details and details about the Agreement:**

Contractor	[●]
Registration No	[●]
VAT payer's No or indication that the Contractor is not a VAT payer	[●]
<b>The Principal's VAT No</b>	
Legal address, city, Zip code, country	[●]
Legal name of Bank	[●]
Bank SWIFT Code	[●]
Bank Account No IBAN	[●]
Subject:	For provided services according to the Framework Services Agreement for Rail Baltica Railway No [●] (CEF Contract No INEA/CEF/TRAN/M[●]/[●]Activity No [●]), Contract Manager: [●]

The Contractor shall send the invoice to the Principal electronically to the following e-mail addresses: [●]. The Principal shall review the invoice to verify whether it contains all necessary requisites.

## Section X. Commencement of Services, remedying of Defects and acceptance

- 10.1 *Commencement of Services.* The Contractor shall not commence provision of the Services until a particular Assignment Order has been confirmed by the Contractor and the respective Principal in accordance with the provisions of this Agreement. The Contractor shall perform the Services and each particular Assignment timely and with due diligence having due regard to any applicable Assignment Milestones and any other key dates for performance of the Services or particular Assignments set out in the Agreement, particular Assignment

Orders and the applicable Annexes, as may be amended from time to time with the consent of the Principal or in accordance with this Agreement and Public Procurement Law of the Republic of Latvia.

- 10.2 *Impediments and Delays.* If the Services, and Assignment, or any part thereof, is impeded or delayed by the Principal or any third party engaged by the Principal so as to increase the duration of the Services or an Assignment:

10.2.1 the Contractor shall inform the Principal of the circumstances and probable effects of such impediment or delay upon the agreed Assignment; and

10.2.2 the duration of the particular Assignment shall be increased, and any Milestones affected by the impediment or delay shall be extended accordingly.

- 10.3 *Defects.* During the provision of and until the final acceptance of each Assignment the Principal shall notify the Contractor of each Defect as soon as Defect is identified by the Principal and the Contractor shall have an obligation to notify the Principal of each Defect as soon as Defect is identified by the Contractor. Upon discovering a Defect, or upon receipt by the Contractor of a notification of Defect from the Principal, the Contractor shall have seven (7) days (unless otherwise specified by the Principal) to remedy the Defect (the "Cure Period"). **In the event of inability or failure** by the Contractor to remedy the Defect within the Cure Period, the Principal shall be entitled, at the sole and exclusive discretion of the Principal, to do any of the following:

10.3.1 allow the Contractor an additional time period for remedying the Defect, such time period to be determined in the sole discretion of the Principal;

10.3.2 remedy the Defect at own cost of the Principal (including by means of relying on the services of a third Person) and demand reimbursement by the Contractor of Costs incurred by the Principal as a result of having to pay other Persons toward carrying out any work or action;

10.3.3 terminate the specific Assignment Order and the Agreement according to Section XII. Termination and suspension in addition to executing Clause 2.7.

For the avoidance of any doubt, the application of the Cure Period under this Clause 10.3 shall be without prejudice to and shall not relieve the Contractor from the obligation to pay any contractual penalty in accordance with the provisions of Clause 13.2 or to pay Damages in accordance with the provisions of Clause 13.3 of this Agreement.

- 10.4 *Completion of an Assignment or part of the Assignment.* Delivery of each Assignment or the meeting of a Milestone or supply of a Deliverable occurs whenever the Contractor has completed all of the works which the Contractor has undertaken to perform according to the specific Assignment Order. On meeting an Assignment Milestone and/or producing a Deliverable or completing the Assignment (including all Documentation and information forming part of the Deliverable or of the Assignment in whole), the Contractor shall issue to the Principal a signed Deed of Acceptance substantially in the form of *Annex E: Form of the Deed of Acceptance* (**hereinafter, the "Deed of Acceptance"**). The Deed of Acceptance shall include the Deliverable and adequate supporting Documentation and information relevant to the Assignment, Assignment Milestone attained and/or Deliverable completed.

- 10.5 *Acceptance or rejection of the Deed of Acceptance.* Upon the reception of the Deed of Acceptance from the Contractor in accordance with Clause 10.4 the Principal shall review the submitted Deed of Acceptance and the specific Deliverable and any supporting Documentation and:

10.5.1 In the event the Principal rejects the submitted Deed of Acceptance, it shall give notice to the **Contractor setting out in reasonable detail any Defect or reason for the objection (the "Objection Notice") within reasonable time as specified in** the specific Assignment Order following receipt of the Deed of Acceptance thus initiating the Cure Period and Defects remedy procedure as specified in Clause 10.3; or

10.5.2 In the event no reasons for objection to the Deed of Acceptance exist, the Principal shall also sign the Deed of Acceptance, within reasonable time following its receipt. The date the Principal accepts and **signs the Deed of Acceptance shall constitute "Completion Date" with respect to the relevant** Assignment Milestone and/or Deliverable or the Assignment as whole. The signed Deed of Acceptance may have annexed to it a list of any outstanding Defects or deficiencies to be corrected by the Contractor.

- 10.6 *Completion of Assignment or part of an Assignment following Receipt of Objection Notice.* After the Defects specified by the Principal in the Objection Notice have been remedied the Contractor shall issue to the Principal a second signed Deed of Acceptance as per the procedure specified in Clause 10.4 and the Principal shall perform the review as generally provided for in Clause 10.5 of this Agreement and:
- 10.6.1 In the event no further reasons for objection to the second Deed of Acceptance exist, then the Defects remedy procedure is concluded and the provisions of Clause 10.5.2 are to be applied; or
  - 10.6.2 In the event the Principal rejects the submitted second Deed of Acceptance it shall give a second Objection Notice, thus simultaneously continuing the Defects remedy procedure with the possibility for the Principal to execute the Clauses 10.3.1 – 10.3.3 at its own discretion.
- 10.7 *Objection Notice and Contractual Penalty.* For the avoidance of any doubt, the giving by the Principal of any Objection Notice under Clause 10.5 or second Objection Notice under the Clause 10.6 shall be without prejudice to and shall not relieve the Contractor from the obligation to pay any contractual penalty in accordance with the provisions of Clause 13.2 or to pay Damages in accordance with the provisions Clause 13.3 of this Agreement.
- 10.8 *Final Acceptance.* Final acceptance of the Assignment shall occur once the Contractor has duly delivered and the Principal has fully accepted the respective Assignment and all of the required Deliverables as specified in the respective Assignment Order. The date when the Principal signs and accepts the last Deed of Acceptance in relation to the particular Assignment and any required Deliverables shall constitute the "Final Acceptance Date" with respect to the particular Assignment.
- 10.9 *Hidden Defects.* For the avoidance of doubt the Parties agree that in addition to the regular Defects remedy procedure as specified in this Section X, in the event the Principal becomes aware of any previously unnoticed error, fault, omission, or defect in an already completed Assignment after the Final Acceptance Date the Principal shall give prompt notice thereof to the Contractor. The Contractor shall have the obligation to correct such error, fault, omission, or defect in the Assignment or non-conformance of any action forming part of the Assignment, free of any additional charge or payment, in no more than seven (7) calendar days after the reception of the respective notice from the Principal.

## Section XI. Intellectual Property Rights

- 11.1 *Proprietary Rights.* All Documentation forming part of the Deliverables developed under this Agreement is and shall become the property of the respective Principal at the moment of creation regardless of whether the Assignment or Deliverable is produced or finally accepted. It is acknowledged and agreed by the Parties that the respective Principal shall be permitted to reproduce the drawings and schemes and distribute the prints in connection with the use or disposition of the Documentation without any approval of the Contractor and without incurring obligation to pay any royalties or additional compensation whatsoever to the Contractor.
- 11.2 *Intellectual Property in Documentation.* The Contractor represents and warrants that it owns all Intellectual Property required for the purposes of completing its obligations under this Agreement and in all Documentation deliverable by or on behalf of the Contractor under this Agreement and that, to the extent any Intellectual Property in any Documentation is not owned by the Contractor, it has obtained all requisite consents from owner(s) of all Intellectual Property in the Documentation to fulfil all of the obligations undertaken by the Contractor under this Agreement and has fully discharged all obligations with respect to payment of any royalties or fees.
- 11.3 *Transfer of Ownership to Principal.* The respective Principal shall acquire legal title to and ownership in the Intellectual Property in all Documentation deliverable to the Principal under this Agreement and separate Assignment Orders as of the moment of delivery by the Contractor to the Principal of the Deed of Acceptance, together with the Deliverable and Documentation and information forming part of the Deliverable, in accordance with Clause 10.4 of this Agreement; provided, however, that the Principal has paid the Fee or other consideration payable under the terms of this Agreement with respect to the relevant Assignment or Deliverable. For the avoidance of any doubt, such title and ownership shall confer upon the Principal, without limitation, each of the following:
- (a) the right to reproduce the Documentation and information, or any part thereof, and distribute copies of the Documentation and information or any part thereof;
  - (b) the right to modify, amend and supplement the Documentation and information, or any part thereof;

- (c) the right to licence the Documentation and information, or any part thereof, for use by others; and
- (d) the right to transfer ownership in the Documentation and information, or any part thereof, to others.

11.4 *Grant of Limited License to Contractor.* Upon acceptance by the Principal of any Deliverable and Documentation forming part of any Deliverable in accordance with Clause 10.4, 10.5, **Error! Reference source not found.** and 10.8 the Principal shall be deemed to have granted the Contractor an irrevocable and exclusive licence to reproduce, modify and distribute copies of any Documentation forming part of any Deliverable for the purposes of the Services and the Project, subject to the following restrictions:

- (a) the license shall apply during the term of this Agreement only;
- (b) the permitted use shall only cover the right to reproduce, modify and distribute the Documentation and information, or any part thereof, for the purposes of performing, implementing or modifying the Services; and
- (c) the Documentation and information, or any part thereof, shall not, without the prior consent by the Principal, be distributed or communicated to any third party for purposes other than those permitted in accordance with this Clause 11.4.

The license in accordance with this Clause 11.4 shall be deemed to have been granted to the Contractor as of the Completion Date.

11.5 *No Additional Royalty.* It is acknowledged and agreed by the Parties that consideration for the transfer of ownership in the Intellectual Property shall be forming part of the Fee and no additional royalty, fee or other consideration of any kind shall be payable by the Principal to the Contractor or to any third party in consideration of the transfer of ownership in the Intellectual Property in any Documentation.

11.6 *No Infringement.* The Contractor represents and warrants to the Principal that no Documentation and information deliverable to the Principal under the terms of this Agreement and separate Assignment Orders will infringe any existing Intellectual Property of any third party. In the event any of the representations or warranties contained in this *Section XI. Intellectual Property Rights* prove to be untrue or inaccurate, the Contractor undertakes, at its own cost and expense, to defend and settle any claim raised by any third-party alleging infringement of Intellectual Property in the Documentation and information. The foregoing undertaking by the Contractor shall apply subject to the following conditions:

- (a) the Principal shall notify the Contractor, without undue delay, of any third-party claim alleging infringement of any Intellectual Property in any Documentation;
- (b) the Principal refrains from admitting liability under any third-party claim or acting on the account of such claim without prior approval by the Contractor; and
- (c) the exclusive control over any legal proceeding or settlement related any third-party claim shall be exercised by the Contractor; provided, however, that the Principal shall render the Contractor all reasonable assistance toward such proceeding or settlement, at the cost and expense of the Contractor.

11.7 *Infringement Proceedings.* In the event the Principal is a party to legal proceedings involving allegations of infringement of any Intellectual Property in the Documentation of any third party, the Contractor shall keep the Principal fully informed of all aspects relevant to the legal proceedings and the Principal shall have the right, at its own cost, to be represented in the legal proceedings by separate counsel. In the event the Contractor fails to act against claims alleging infringement of any Intellectual Property in the Documentation and information of any third party within reasonable time but, in any event, within twenty (20) days of having been notified of such claims, the Principal shall have the right to assume legal defence against claims alleging infringement of Intellectual Property and shall be entitled to reimbursement by the Contractor of reasonable costs and expenses incurred toward such defence.

11.8 *Continued Use.* In the event a court of competent jurisdiction resolves in a binding judgment that the Documentation and information, or any part thereof, infringe Intellectual Property of any third party, the Contractor shall, at its own cost and expense, procure for the Principal the right of continued use of the Documentation and information, or part thereof infringing Intellectual Property of a third party.

11.9 *License in Intellectual Property of the Contractor.* The Contractor hereby grants the Principal an irrevocable and non-exclusive license to use, reproduce, modify and/or enhance any Intellectual Property of the Contractor, provided and to the extent Intellectual Property of the Contractor is used by the Principal, other

Principals and other Railway/Project stakeholders for the purposes of the Railway and/or the Project. It is agreed and acknowledged by the Parties that the license fee for the grant of license in accordance with this Clause 11.9 forms part of the Fee and such license shall continue to be valid irrespective of expiration of this Agreement following completion of the Assignment or termination of this Agreement for any reason.

- 11.10 *Obligation to Procure Intellectual Property Rights.* Where the Contractor is not the legal owner of any relevant Intellectual Property of the Contractor, the Contractor shall use reasonable endeavours to procure for the Principal the rights specified in accordance with Clause 11.9.
- 11.11 *Obligation to Indemnify with Respect to Uses Other Than for the Purpose.* The Principal shall defend and indemnify the Contractor from and against any and all Damages and Costs arising from the use by the Principal of any Intellectual Property of the Contractor other than for the purposes of the Railway and/or the Project.
- 11.12 *Indemnification by the Contractor.* The Contractor shall defend and indemnify the Principal from and against any and all Damages arising from the use by the Principal of any Intellectual Property of the Contractor, to the extent use by the Principal is within the scope of the license granted to the Principal in accordance with Clause 11.9.

## Section XII. Termination and suspension

- 12.1 *Termination for Material Breach or Bankruptcy.* Subject to the provisions of Clause 12.2, either Party shall be entitled to terminate this Agreement upon giving a written notice of termination to the other Party in the event of material breach by the other Party of any of its obligations under this Agreement. The written notice of termination shall contain an itemized description of the breach. For the purposes of this Section XII an event of material breach shall include any of the following:
  - 12.1.1 commitment by a Party of any persistent or material breach of this Agreement (which shall include failure to pay an amount of at least EUR 5,000 due to the other Party or perform any part of the Assignment or an Assignment valued at least EUR 5,000;
  - 12.1.2 failure by the Contractor to duly address and remedy the Defects in the Cure Period in accordance with Clauses 10.3;
  - 12.1.3 failure by any Deliverable to conform to any of the material requirements to such Deliverable contained in the particular Assignment Order, provided that such failure is not capable of being remedied during the Cure Period;
  - 12.1.4 failure by the Principal to make any payment to the Contractor in accordance with this Agreement within at least fifteen (15) Business Days from the date of payment falling due;
  - 12.1.5 any of the representations or warranties given by either Party under Section VIII or any of the representations or warranties given by the Contractor under Clause 8.2 proving to be untrue; or
  - 12.1.6 breach by the Contractor of the undertaking contained in Clause 11.10.
- 12.2 *Corrective Period.* In the event of breach by either Party of its obligations under this Agreement, the non-breaching Party shall allow the breaching Party fourteen (14) days for corrective action or submission of a **corrective action plan (the "Corrective Period")**. The Corrective Period shall be counted from the date of receipt by the breaching Party of a written notice of breach. Should no satisfactory corrective action be taken, or acceptable corrective action plan provided by the breaching Party, the non-breaching Party shall have the right to terminate the Agreement. It is acknowledged and agreed by the Parties that the provisions of this Clause 12.2 shall not apply with respect to any of the events enumerated in accordance with Clause 12.5. In addition and for the avoidance of any doubt, the application of the Corrective Period under this Clause 12.2 shall be without prejudice to and shall not relieve either Party from the obligation to pay any contractual penalty in accordance with the provisions of Clause 13.2 or to pay Damages incurred by the other Party in accordance with the provisions of Clause 13.3.

To clarify the Corrective Period is not applied where the breach of the Agreement is related to Defects and Acceptance procedures as specified in Clauses 12.1.2 as in these cases the purpose of the Corrective Period is fulfilled by the Cure Period and its prior application.
- 12.3 *Right to Terminate Immediately.*

12.3.1 Notwithstanding anything to the contrary contained in this Agreement, a Party may terminate this Agreement immediately upon giving the Parties a written notice of termination explaining, in reasonable detail, the reason for termination upon occurrence of any of the following:

- (a) breach by a Party of Clause 19.2;
- (b) an event of Force Majeure has been continuing during more than sixty (60) days;
- (c) a Party had passed a resolution for winding-up (other than in order to amalgamate or reconstruct);
- (d) breach by the Contractor any of the confidentiality undertakings contained in *Section XIV. Force Majeure*;
- (e) a Party is unable to pay its debts and has presented a petition for voluntary bankruptcy;
- (f) a Party had a bankruptcy order issued against it;
- (g) liquidation, insolvency or legal protection proceedings have been initiated with respect to a Party or a Party is declared insolvent;
- (h) the occurrence of any event analogous to the events enumerated under Clauses 12.3.1 (e) – (g) under the law of any jurisdiction to which a **Party's assets and undertaking are subject**.

12.3.2 **Principal's Right to Terminate Immediately.** The Principals may terminate this Agreement immediately upon giving the Contractor a written notice of termination explaining, in reasonable detail, the reason for termination, if:

- (a) CEF Co-financing for further financing of the Services are not available to the Principal fully or partly;

In such a case, the Principal shall pay the Contractor 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 Contractor.

- (b) 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.

12.4 **Termination according to Public Procurement Law.** 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 Article 64 of the Public Procurement Law. In such a case, the Principal shall pay the Contractor 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 Contractor.

12.5 **Right to Advance to Completion.** In the event the Contractor fails to fulfil any of its obligations, or fails to cure any breach in accordance with Clause 12.2, and the Agreement is terminated by the Principal, the Principal **may advance the Assignment to completion by employing the services of Other Contractor's or by other means** available to the Principal. The Contractor shall be liable to the for any and all additional costs incurred due to failure by the Contractor to perform. The rights and remedies available to the set forth in accordance with this Clause 12.5 shall be in addition to any and all other rights and remedies available under Applicable Law.

12.6 **Consequences of Termination.** Upon expiration or termination of this Agreement, the obligations of the Parties set forth in this Agreement shall cease, except with respect to the following:

- (a) any obligations arising as a result of any antecedent breach of this Agreement or any accrued rights; and
- (b) the provisions stipulated in accordance with Clauses 7.5, 7.6, 10.3, 11.2, 11.3, 11.5, 11.6, 11.12, 12.7, 13, 13.2, 13.3, 19.2, and *Section XV. Confidentiality, Section XVI. Right to Audit, Section XV. On-the-spot-visits and Section XVIII. Governing Law and Resolution of Disputes* which shall survive the termination or expiry of this Agreement and continue in full force and effect along with any other Clauses of or Annexes hereof which are necessary to give effect to the Clauses specifically identified in this 12.6(b).

12.7 **Partial Acceptance.** Notwithstanding anything in this Agreement to the contrary including, without limitation, the provisions of Clauses 10.4, 10.5, **Error! Reference source not found.** and 10.8 and in the event of t

termination of this Agreement, the Principal shall have the right, in the sole discretion of the Principal, to partially accept any part of the Assignment delivered to the Principal **under this Agreement (the "Right of Partial Acceptance")**. **The Principal shall notify the Contractor of its intention to exercise the Right of Partial Acceptance** in the termination notice given in accordance with Section XII or Clause 12.3 of this Agreement, specifying, in reasonable detail, the part of the Assignment which the Principal would like to partially accept. In the event of receipt of such notice, the Contractor shall reasonably cooperate with the Principal in order to ascertain transfer to the Principal of ownership in the result(s) of part of the Assignment and determination of the amount of consideration payable by the Principal.

- 12.8 ***Principal's Obligation to Pay.*** Subject to the provisions of Clause 12.7 and except in the event of termination by the Principal occurring as a result of violation by the Contractor of Clause 19.2, or termination by the Principal according to Clause 12.3.2 or 12.4 in the event this Agreement is terminated for any reason prior to completion of as Assignment, the Principal shall have an obligation to pay the Contractor the following:
- (a) the Costs incurred by the Contractor up to the date of termination; and
  - (b) except where termination is due to negligence of the Contractor, due to the application of international sanctions, breach by the Contractor, insolvency of the Contractor or a Force Majeure Event under *Section XIV. Force Majeure*:
    - (i) an amount equal to the costs reasonably and properly incurred by the Contractor as a result of or in connection with such termination; and
    - (ii) such additional amount as is required to put the Contractor in the same after-tax position (taking into account the amount of any relief, allowance, deduction, set-off or credit relating to tax available to the Contractor in respect of the payment received) as it would have been in if the payment had not been a taxable receipt in the hands of the Contractor.
- 12.9 ***No Obligation to Pay Costs Incurred Prior to Acceptance.*** Notwithstanding anything set forth in this Agreement to the contrary including, without limitation, under Clause 12.8, the Principal shall have no obligation to pay any of the Costs incurred by the Contractor with respect to any particular Assignment (or part of any particular Assignment) not deemed as having been accepted by the Principal in accordance with Clauses 10.4, **Error! Reference source not found.** and 10.8.
- 12.10 ***No Prejudice to Other Rights.*** The right to terminate this Agreement shall be without prejudice to any other right of either Party which has accrued prior to or as a result of such termination or to any remedy available to either Party under the terms of this Agreement or in accordance with Applicable Law.

### Section XIII. Liability

- 13.1 ***Liability of the Parties.*** The Contractor shall be liable to compensate Damages incurred by the Principals arising out of or in connection with this Agreement and pay contractual penalty set forth in accordance with Clause 13.2 if a breach of any of the obligations of the Contractor under this Agreement is established against the Contractor. The Principal shall be liable to pay the contractual penalty set forth in accordance with Clause 13.2 if a breach of payment obligations of a respective Principal under this Agreement is established against the Principal.
- 13.2 ***Contractual Penalty.*** In the event of failure by the Contractor to meet any Milestone and/or supply any Deliverable, the Contractor shall be liable to pay to the Principal a penalty of zero point one percent (0.1%) of the amount of total the Fee payable under this Agreement with respect to the relevant Assignment for each day of delay starting from the first delayed day with meeting any of the Milestones and/or supplying any of the Deliverables set forth in accordance with the particular Assignment Order provided, however, that the total amount of penalty payable by the Contractor under this Clause 13.2 for the relevant Assignment, as specified according in the particular Assignment Order shall not exceed ten percent (10%) of the total amount of the Fee payable in consideration of such Assignment. In the event of failure by the Principal to pay any amount in accordance with Clause 9, the Principal shall be liable to pay the Contractor a penalty of zero point zero one percent (0.01%) of the amount of the amount invoiced for each day of delay with meeting the payment obligation; provided, however, that the total amount of penalty payable by the Principal under this Clause 13.2 shall not exceed ten percent (10%) of the total amount remaining unpaid under the relevant invoice.

For the avoidance of doubt the contractual fine as specified in Clause 2.7 of this Agreement is payable in addition to the penalty specified in this Clause 13.2 if the conditions of Clause 2.7 and Clause 10.3.3 have occurred.

- 13.3 *Compensation for Damages.* Notwithstanding of and without prejudice to any contractual penalty payable in accordance with Clause 13.2 or contractual fine payable in accordance with Clause 2.7 and subject to the provisions of Clause 13.5, in the event it is established that either Party is liable to the other Party with respect to any breach of its respective obligations under this Agreement, the liable Party shall compensate the other Party for any Damages incurred as a result of such breach, subject to the following terms:
- (a) the amount of compensation shall be limited to the amount of reasonably foreseeable Damages suffered as a result of the breach(es), but not otherwise; and
  - (b) if either Party is considered to be liable jointly with third parties to the other, the proportion of compensation payable by the liable Party shall be limited to that proportion of liability which is attributable to the breach by the liable Party.
- 13.4 *Attribution of Damages.* Any Damages suffered by either Party shall, for the purposes of Clause 13.3, be reduced to the extent that the Damages are caused by or contributed to by the **another Party's own** negligence or breach of its obligations under this Agreement.
- 13.5 *Limitation of Liability.* Notwithstanding anything to the contrary set forth in this Agreement, in no circumstances shall the Contractor or Principal be liable to one another for any loss of production, loss of profit, loss of revenue, loss of contract, liability incurred under other agreements (with the exception of costs paid by the Principal to contractors appointed by the Principal in relation to the Services or particular Assignment or the Project) or any indirect or consequential loss arising out of or in connection with this Agreement. The **Contractor's total liability for the Services** carried out under this Agreement in accordance with concluded Assignment Orders shall in no circumstances exceed **double the Service Fee of each concluded Assignment Order**.
- 13.6 *Insurance Against Liability.* The Contractor shall insure against public/third party liability (Professional risk indemnity insurance) if requested by the respective Principal for the implementation of a specific Assignment Order as detailed in either the Request for Proposal or Request for Assignment.
- 13.7 *Obligation to Effect Insurance.* The Contractor undertakes to effect such insurance with an insurer and on terms and conditions as detailed by the respective Principal. The limit of Professional risk indemnity insurance liability (Clause 13.6) for the insurance coverable shall be no less than double the Service Fee of the specific Assignment Order total for all claims during the whole period of performance of the specific Assignment Order or another period not exceeding 5 (five) years from the conclusion of the specific Assignment as initially specified in the respective Request for Assignment or Request for Proposal. The costs of such insurance shall be at the sole expense of the Contractor.
- 13.8 *Insurance Certificate.* Before entering into the specific Assignment Order, the Contractor shall provide certificate from its insurer or broker stating that the insurance required under this *Section XIII. Liability* are in full force and effect. The Contractor shall maintain it in force as long as it is necessary to accomplish any obligations according to this Agreement and the specific Assignment Order. In addition, the Contractor shall provide not less than five (5) Business days prior written notice to the respective Principal of any cancellation or material reduction in the insurance. The Contractor is obliged to submit to the respective Principal a copy of a renewed insurance certificate or a new insurance certificate including the provisions set in Clause 13.6 within five (5) Business Days before the date of expiry of the previous insurance certificate.

#### Section XIV. Force Majeure

- 14.1 *Effects of Force Majeure.* Subject to the requirements set forth in accordance with Clauses 14.2 and 14.3, each Party shall be relieved from liability for non-performance of its obligations under this Agreement (other than any obligation to pay) to the extent that the Party is not able to perform such obligations due to a Force Majeure Event.
- 14.2 *Action on Becoming Aware of Force Majeure.* Each Party shall at all times, following the occurrence of a Force Majeure Event:
- (a) take reasonable steps to prevent and mitigate the consequences of such an event upon the performance of its obligations under this Agreement, resume performance of its obligations affected by the Force Majeure Event as soon as practicable and use reasonable endeavours in accordance with Good Industry Practice to remedy its failure to perform; and



- (b) not be relieved from liability under this Agreement to the extent that it is not able to perform, or has not in fact performed, its obligations under this Agreement due to any failure to comply with its obligations under Clause 14.2(a).

- 14.3 *Notification Requirements.* Upon the occurrence of a Force Majeure Event, the affected Party shall notify the other Parties as soon as reasonably practicable and in any event within ten (10) Business Days of it becoming aware of the relevant Force Majeure Event. Such notification shall give sufficient details to identify the particular event claimed to be a Force Majeure Event and shall contain detailed information relating to the failure to perform (or delay in performing), including the date of occurrence of the Force Majeure Event, the effect of the Force Majeure Event on the ability of the affected Party to perform, the action being taken in accordance with Clause 14.2(a) and an estimate of the period of time required to overcome the Force Majeure Event. The affected Party shall provide the other Party with any further information it receives or becomes aware of which relates to the Force Majeure Event and provide an update on the estimate of the period of time required to overcome its effects.
- 14.4 *Notification of Resumed Performance.* The affected Party shall notify the other Parties as soon as practicable once the performance of its affected obligations can be resumed (performance to continue on the terms existing immediately prior to the occurrence of the Force Majeure Event).
- 14.5 *Mitigation of Effects of Force Majeure.* As soon as practicable after the notification specified pursuant to Clause 14.3, the Parties shall use reasonable endeavours to agree appropriate terms or modifications to the Assignment to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Agreement.

## Section XV. Confidentiality

- 15.1 *Confidential Information.* "**Confidential Information**" means, in relation to the Principals, all information of a confidential nature relating to the Principals and its affiliates which is supplied by the respective Principal (whether before or after the date of this Agreement) to the Contractor, either in writing, orally or in any other form and includes all analyses, compilations, notes, studies, memoranda and other documents and information which contain or otherwise reflect or are derived from such information, but excludes information which:
  - (a) the Principal confirms in writing is not required to be treated as confidential; or
  - (b) the Contractor can show that the Confidential Information was in its possession or known to it (by being in its use or being recorded in its files or computers or other recording media) prior to receipt from the Principal and was not previously acquired by the Contractor from the Principal under an obligation of confidence; or
  - (c) was developed by or for the Contractor at any time independently of this Agreement.
- 15.2 *Undertakings with Respect to Confidential Information.* Subject to Section XV and Clause 15.3, the Contractor shall:
  - (a) at all times keep confidential all Confidential Information received by it and shall not disclose such Confidential Information to any other Person; and
  - (b) procure that its affiliates and its and their respective officers, employees and agents shall keep confidential and not disclose to any Person any Confidential Information except with the prior written consent of the Party to which such Confidential Information relates.
- 15.3 *Permitted Disclosure.* Notwithstanding anything to the contrary set forth in accordance with Section XV and Clause 15.2, the Contractor shall, without the prior written consent of the Principal, be entitled to disclose Confidential Information:
  - (a) that is reasonably required by the Contractor in the performance of its obligations pursuant to this Agreement, including the disclosure of any Confidential Information to any employee, contractor, agent, officer, Sub-Contractor (of any tier) or adviser to the extent necessary to enable the Contractor to perform its obligations under this Agreement;
  - (b) to enable a determination to be made pursuant to *Section XVII. On-the-spot-visits*;
  - (c) to its lenders or their professional advisers, any rating agencies, or its insurance advisers but only to the extent reasonably necessary to enable a decision to be taken on the proposal;

- (d) to the extent required by Applicable Law or pursuant to an order of any court of competent jurisdiction, any parliamentary obligation or the rules of any stock exchange or governmental or regulatory authority having the force of law; or
  - (e) to the extent Confidential Information has become available to the public other than as a result of any breach of an obligation of confidence; provided that any such disclosure is made in good faith.
- 15.4 *Obligation of Confidentiality Pertinent to Recipients of Confidential Information.* Whenever disclosure is permitted to be made pursuant to Clauses 15.3(a) or (c), the Contractor shall require that the recipient of Confidential Information be subject to the same obligation of confidentiality as that contained in this Agreement.
- 15.5 *Certain Obligations on Termination of Agreement.* If this Agreement is terminated for whatsoever reason, the Contractor shall:
- (a) return to the Principal all of the Confidential Information then within the possession or control of the Contractor; or
  - (b) destroy such Confidential Information using a secure and confidential method of destruction.
- 15.6 *No Press Release by Contractor.* Save as required by Applicable Law, the Contractor shall not issue any press release in relation to the matters contemplated under this Agreement without the prior written consent of the Principal (such consent not to be unreasonably withheld or delayed) as to both the content and the timing of the issue of the press release.
- 15.7 *Right to Publish.* For the avoidance of any doubt, the Principals shall have the right to publish any of the documents, information or data provided by the Contractor to the Principal during provision of the Services.
- 15.8 *Remedies.* The Parties acknowledge and agree that a breach of the provisions of this *Section XV. Confidentiality* may cause the owner of Confidential Information to suffer irreparable Damages that could not be adequately remedied by an action at law. Accordingly, the Contractor agrees that the owner of Confidential Information that is disclosed in breach of Clauses 15.2, 15.4 or 15.6 may be entitled to specific performance of those provisions to enjoin a breach or attempted breach thereof and to any other remedy, including, inter alia, damages and injunctive relief, awarded by a court of competent jurisdiction.

## Section XVI. Right to Audit

- 16.1 *Right to Audit.* Notwithstanding anything to the contrary set forth in this Agreement including, the Principal itself, a reputable outside independent body or expert engaged and authorized by the Principal shall be entitled to inspect and/or audit the Contractor to ensure compliance with the terms of this Agreement, including inspecting and/or auditing:
- (a) the performance of any aspect of the Services; and/or
  - (b) any documentation, including all payrolls, accounts of the Contractor and/or other records used in or related to the performance of the Services.
- 16.2 *Obligation to Assist.* The Contractor shall provide all reasonable assistance to the Principal or the independent body authorized by the Principal in carrying out any inspection or audit pursuant to this *Section XVI. Right to Audit*. The Principal shall be responsible for its own costs, or the costs incurred by the outside independent body designated by the Principal, incurred toward carrying out such inspection or audit, unless, in the case of any such audit, that audit reveals that the Contractor is not compliant with the terms of this Agreement, in which case the Contractor shall reimburse the Principal for all of its additional reasonable costs incurred, provided such non-compliance is material.
- 16.3 *Survival of Termination.* The rights and obligations of the Principal set forth in accordance with this *Section XVI. Right to Audit* shall survive expiration or termination of this Agreement for any reason and shall continue to apply during ten (10) years following expiration or termination of this Agreement for any reason whatsoever.

## Section XVII. On-the-spot-visits

- 17.1 *Right to perform On-the-spot visits.* By submitting a written notice five (5) Business Days in advance, but at the same time reserving the right of an unannounced on-the-spot visit without an advance notice, the

Principal may carry out on-the-spot visits to the sites and premises where the activities implemented within the Agreement are or were carried out.

- 17.2 *Personnel involved.* On-the-spot visits may be carried out either directly by authorised staff or representatives of the Principal or by any other outside body or third party authorised to do so on behalf of the Principal. Information provided and collected in the framework of on-the-spot visits shall be treated on confidential basis. The Principal shall ensure that any authorised outside body or third party shall be bound by the same confidentiality obligations.
- 17.3 *Access to the information.* Contractor shall provide to the performer of the on-the-spot visit or any other authorised outside body or third party 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 authorised outside body or third party 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 authorised outside body or third party the copying of the information and documents, with due respect to the confidentiality obligation.
- 17.4 *OLAF checks and inspections.* 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 European Union law for the protection of the financial interests of the European Union against fraud and other irregularities. Where appropriate, OLAF findings may lead to criminal prosecution under national law.


#### Section XVIII. Governing Law and Resolution of Disputes

- 18.1 *Governing Law.* This Agreement shall be governed by and construed in accordance with law of the Republic of Latvia.
- 18.2 *Resolution by Amicable Means.* The Parties shall first attempt to settle any dispute, controversy or claim arising out of or relating to this Agreement through good faith debate, discussion, and negotiating prior to submitting them to mediation, arbitration, or other legal proceeding.
- 18.3 *Venue for Resolution of Disputes.* Should the Parties fail to agree by means of amicable negotiations within the time period of two (2) months from the date of serving of the respective written complaint to the other Party, the Parties shall submit all their disputes arising out of or in connection with this Agreement to the exclusive jurisdiction of the courts of the Republic of Latvia. The Parties hereby represent and warrant that the English language is understandable for both Parties in accordance with Article 8(1)(a) of the Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) and repealing Council Regulation (EC) No 1348/2000.

#### Section XIX. Miscellaneous provisions

- 19.1 *Capacity.* Each Party warrants to the other Party that it has full power to enter into and perform this Agreement, and the person signing this Agreement on its behalf has been duly authorized and empowered to enter into such agreement. Each Party further acknowledges that it has read this Agreement, understands it and agrees to be bound by it.
- 19.2 *Conflict of Interest, Corruption and Fraud.* Notwithstanding any penalties that may be enforced against the Contractor under Applicable Law, or the laws of other jurisdiction(s), the Contractor shall be deemed to have committed a breach under this Agreement and the Principal shall be entitled to terminate this Agreement immediately and without any regard to the provisions of Clause 12.2, if it is shown that the Contractor is guilty of:
- (a) offering, giving, receiving or soliciting anything of value with a view to influencing the behaviour or action of anyone, whether a public official or otherwise, directly or indirectly in the selection process or in the conduct of the Agreement; or

- (b) misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Principal, including the use of collusive practices intended to stifle or reduce the benefits of free and open competition.
- 19.3 For the purpose of execution of this Agreement, the Parties might transfer to each other certain personal data, such as data on employees of the Parties, data on suppliers, data on potential candidates, 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.
- 19.4 The Party shall transfer the personal data to the other Parties and such other Parties shall process the personal data only for the purposes of execution of the Agreement and other such purposes as required by Applicable laws.
- 19.5 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.
- 19.6 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 statutory law governing the protection of personal data.
- 19.7 *Notices.* Notices under the Agreement shall be in writing and will take effect from receipt by the Party to which the notice is addressed at the address of the Party set forth in the Preamble to this Agreement. Delivery can be by hand or facsimile message against a written confirmation of receipt or by registered letter.
- 19.8 *Damages Covered by Insurance.* To the extent Damages are covered by insurance, the Principal and the Contractor waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance current as of the date of this Agreement.
- 19.9 *Relationship of the Parties.* The relationship between the Contractor to the Principal under this Agreement is **that of independent contractors. The Contractor (or the Contractor's Sub-Contractors)** is not an employee of the Principal, is not carrying out the regular business of the Principal and is not subject to the same employment regulations as are applicable to employees of the Principal. Each of the Parties shall be solely and entirely responsible for their own acts and the acts of their employees. No benefits, special considerations, or employer/employee-type provisions are provided by the Principal **to the Contractor, the Contractor's employees, or the Contractor's consultants, or the employees of such consultants.**
- 19.10 *Severability.* If any provision of this Agreement shall be held to be illegal, invalid, void or unenforceable under Applicable Laws, the legality, validity and enforceability of the remainder of this Agreement shall not be affected, and the legality, validity and enforceability of the whole of this Agreement shall not be affected.
- 19.11 *Successors and Assigns.* The Principal and the Contractor each bind themselves, their successors, legal representatives, and assigns to the other party to this Agreement and to the partners, successors, legal representatives and assigns of such other party in respect to all covenants of this Agreement. Neither Party shall assign or transfer its respective interest in the Agreement without written consent of the other Party.
- 19.12 *Amendments and Variations.* No amendment to or variation of this Agreement shall be effective unless made in writing and signed by duly authorized representatives of both Parties. The Agreement can be amended in compliance with the provisions of Article 61 of the Public Procurement Law of the Republic of Latvia.
- 19.13 *Entire Agreement.* This Agreement, and the Annexes hereto, constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes and extinguishes all and any prior drafts, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.

- 19.14 *Possible merger of the Principal.* The Parties acknowledge that in the event EDZL and/or RB Estonia will merge with RB Rail to form a single legal entity this Agreement shall continue with RB Rail assuming the rights and obligations previously held by either EDZL and/or RB Estonia.
- 19.15 *Execution.* This Agreement may be executed in  counterparts to be held by each Party which counterparts, taken together, shall constitute one and the same instrument.

Signed by:

## Annex A: Definitions and common terms

The following capitalized terms shall be ascribed the following meaning for the purposes of the Agreement:

- (a) **"Agreement"**, this Agreement, together with all Annexes thereto.
- (b) **"Applicable Law" or "Law"**, any legislative act, regulation, decree, order, ordinance, statute, treaty, directive, judgment, or other legislative measure. For the avoidance of any doubt, these terms shall include any legislative act or directive relevant to public procurement.
- (c) **"Approved Staff"**, any person or organization listed pursuant to *Annex D: List of approved Sub-Contractors and Staff*, which is in a contractual relationship with the Contractor to provide a part of the Services.
- (d) **"Approved Sub-Contractor"**, any person or organisation listed pursuant to *Annex D: List of approved Sub-Contractors and Staff*, which is in a contractual relationship with the Contractor to provide a part of the Services.
- (e) **"Assignment"**, means the specific instance of Services that is procured by a Principal in accordance with this Agreement within the scope of the framework.
- (f) **"Assignment Order"**, means the agreement between a Principal and the Contractor for the implementation of an Assignment.
- (g) **"Completion Date"**, as defined in accordance with Clause 10.4 and 10.6, as appropriate.
- (h) **"Confidential Information"**, as defined in accordance with Section XV of the Agreement.
- (i) **"Contractor"**, the company [•], as further specified in the Preamble of this Agreement, which is employed by the Principal as an independent professional contractor to perform the Services, and legal successors to the Principal and permitted assignees of the Principal.
- (j) **"Costs"**, direct costs reasonably incurred in relation to the Project. Specifically, the Cost shall include any of the following:
  - (i) costs of all materials and supplies forming part of the Services, including transportation and storage expenses (discounts for cash or prompt payments will not reduce these costs);
  - (ii) salaries for personnel in the direct employ of the Contractor in the performance of the Services or relating to the Services;
  - (iii) **salaries of the Contractor's employees for the time** that they spend in connection with the Services;
  - (iv) payments to sub-contractors for relating to the Services;
  - (v) costs of all employee benefits and taxes for items such as social security and other benefits for the labour and employees;
  - (vi) costs, including transportation and maintenance, of equipment and hand tools not owned by workmen employed by the Contractor which are employed or consumed toward the Services;
  - (vii) payments for rental charges for machinery, equipment, facilities and tools used in connection with the Services, and payments for installations, repairs, replacements, dismantling, removal, lubrication, transportation and delivery of those rental items;
  - (viii) other transportation costs incurred in connection with the Services;
  - (ix) that portion attributable to this Agreement of premiums for insurance that is required by this Agreement (if applicable) or by law to be obtained or maintained by the Contractor;
  - (x) sales, use, gross receipts or other taxes related to the Services, imposed by any governmental authority, to the extent that the Contractor is responsible for such taxes;

- (xi) costs of long-distance telephone calls, telephone service at the site and postage relating to the Services;
  - (xii) costs of any data processing services used in connection with the performance of the Services required under this Agreement; and
  - (xiii) losses and expenses, not compensated by insurance, sustained by the Contractor in connection with the Services under this Agreement (if applicable), provided they resulted from causes other than the fault or neglect of the Contractor.
- (k) **"Corrective Period", as defined in accordance With Clause 12.2.**
  - (l) **"Cure Period", as defined in accordance with Clause 10.3.**
  - (m) **"Damages", any cost, claim, damage, demand, loss, expense or liability incurred by the relevant Party or Person.**
  - (n) **"Deed of Acceptance", as defined in accordance with Clause 10.4 and in the form as provided in Annex E: Form of the Deed of Acceptance.**
  - (o) **"Defect", is a part of the Services or an Assignment which is not in accordance with *Annex B: Technical Specification*, the Applicable Law or Good Industry Practice.**
  - (p) **"Deliverable", any information, notes, material, drawings (including drawings in 3D model), records, documents and/or other items which the Contractor is required to deliver to the Principal as part of an Assignment.**
  - (q) **"Documentation", all records, correspondence, and files of the Contractor, its employees, engineers, and consultants pertaining to the Project.**
  - (r) **"Effective Date", the date when all of the required Contractors/Other Contractors of the specific Lot No [●] of Procurement Procedure have signed this Agreement and other identical Framework Agreements.**
  - (s) **"EUR" and "euro", the official currency of the eurozone, officially known as the euro area.**
  - (t) **"Fee", as specified in accordance with Clause 9.1 *Error! Reference source not found.***
  - (u) **"Final Acceptance Date", as defined in accordance with Clause 10.8.**
  - (v) **"Force Majeure Event", any of the following events:**
    - (i) an act of the public enemy or war (declared or undeclared), threat of war, revolution, riot, insurrection, civil commotion, demonstration or sabotage;
    - (ii) an act of vandalism or accidental damage or destruction of machinery, equipment, track or other infrastructure;
    - (iii) a natural disaster or phenomena, including extreme weather or environmental conditions (such as lightning, earthquake, hurricane, storm, fire, flood, drought or accumulation of snow or ice);
    - (iv) nuclear, chemical or biological contamination;
    - (v) pressure waves caused by devices travelling at supersonic speeds;
    - (vi) discovery of fossils, antiquities or unexploded bombs; and/or
    - (vii) strike, lockout or other industrial action other than involving the Contractor or the Principal.
  - (w) **"Framework Agreements", this Agreement as well as the other identical framework agreements concluded with the Other Contractors based on the results of the Lot [●] of the Procurement Procedure;**
  - (x) **"Good Industry Practice", in relation to the performance of any activity to which this standard is applied, the exercise of that degree of skill, diligence, prudence and foresight as would reasonably be expected to be exercised by a properly qualified and competent person engaged in carrying out Services of a similar size, nature, scope, type and complexity, complying with Applicable Law, applicable Standards and published codes of practice.**

- (y) **"Intellectual Property", all intellectual property rights in any part of the world** in respect of any documentation or information provided by the Contractor to the Principal, including any patent, patent application, trade mark, trade mark application, registered design, registered design application, utility model, trade name, discovery, invention, process, formula, specification, copyright (including all neighbouring rights, rights in computer software and database and topography rights), know how or unregistered design right.
- (z) **"Intellectual Property of the Contractor", all Intellectual Property** owned or licensed to the Contractor with a right to sub-license.
- (aa) **"Objection Notice", as defined in accordance** with Clause 10.5.
- (bb) **"Other Contractors", the companies [●]** as further specified in the Preamble of this Agreement, who are also engaged by the Principals in the provision of Services as a result of Lot No [●] of the Public Procurement.
- (cc) **"Party" and "Parties", the Principals** and the Contractor and include their respective successors in title, permitted assigns and permitted transferees.
- (dd) **"Person" shall include any person, company, body corporate, government, state or agency of a state** or any association or partnership (whether or not having separate legal personality) or two or more of the foregoing.
- (ee) **"Project", development of a 1435 mm standard gauge railway line in the Rail Baltica (RB) corridor** through Estonia, Latvia and Lithuania aimed at eliminating the technical bottleneck due to the gauge differences (1,520 mm vs. the EU standard of 1,435 mm).
- (ff) **"Principals", the companies RB Rail AS, SIA "Eiropas dzelzceļa linijas" and OU RAIL BALTIC ESTONIA** as further specified in the Preamble of this Agreement, which employ the services of the Contractor, and legal successors to the Contractor and permitted assignees of the Contractor.
- (gg) **"Railway", a new fast conventional double track electrified railway line according TSI INF P2-F1 criteria** and European standard gauge (1435 mm) on the Route.
- (hh) **"Residence Certificate", a certificate mentioned in Clause 8.2(h).**
- (ii) **"Request for Assignment", as described in Clause 4.4.**
- (jj) **"Request for Proposal", as described in Clause 4.5.**
- (kk) **"Right of Partial Acceptance", as defined in accordance with Clause 12.7.**
- (ll) **"Standards", CEF Standards and Grant Agreement Standards;**
- (mm) **"Milestone", the date** for delivery of one or more Deliverables, as may be set out in specific Assignment Orders;
- (nn) **"Services", the [●] services** that are to be provided on an on-demand basis as specified in *Annex B: Technical Specification*.
- (oo) **"VAT", value added tax;**
- (pp) **"Business Day", as specified in accordance with Clause 1.2.9 of this Agreement.**



## Annex B: Technical Specification

## Annex C: Draft Assignment Order

ASSIGNMENT ORDER NO. [●]

Date [●]

### FOR THE PROVISION OF EXPERT SERVICES

This Assignment Order has been entered into pursuant to the Framework Agreement No [●] for the provision of expert services between

[●], a [●] company registered in the [●] registration No [●], legal address at [●] (the "Principal"), represented by Management Board Member [●] and Management Board Member [●] acting on the basis of the [●], on the one side

[●], a [●] company organized and existing under [●] law, registration number with [●], having its registered address at [●] (the "Contractor"), represented by [●][●] acting on the basis of [●] on the other side

for providing of the Assignment Order by the Contractor to the Principal on the following conditions:

1. **Names of the persons to implement Assignment Order:** [●]
2. **Description of the Assignment Order and the desired result:** [●].
3. **Form/output of the deliverables:** [●].
4. **Timeline/deadline for implementing the Assignment Order:** [●].
5. **Timeline/deadline for review of the Deliverables:** [●]
6. **Assignment's communication's planning meetings:** [●]
7. **Contact person(s) for the Principal:** [●].
8. **Contact person(s) for the Contractor:** [●].
9. **Work load (in hours) and sum of fee in total (exclusive of VAT) for implementing expert services of Assignment Order:** [●].
10. **Payment:** According to the Framework Agreement for No [●] for the provision of expert services.
11. **No Conflict of Interest:** Contractor appointed to implement Assignment Order confirms having no Conflict of Interests in the meaning of the requirements specified in Clause 4.9 of the Agreement for the provision of expert services regarding the above described Assignment Order.
12. **Governance:** This Assignment Order supplements, forms part of and is subject to the Framework Agreement No [●] for the provision of expert services. All provisions contained in the Agreement thereof govern this Assignment Order. In the event of any inconsistency between the provisions of the Framework Agreement No [●] for the provision of expert services and this Assignment Order, this Assignment Order shall prevail.
13. **Other terms:** [●].

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Principal

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Contractor

#### **Annex D: List of approved Sub-Contractors and Staff**

[A LIST OF ALL SUB-CONTRACTORS AND/OR SUPPLIERS THE CONTRACTOR ANTICIPATES TO ENGAGE TOWARD PROVISION OF THE SERVICES. PLEASE INDICATE NAME, CONTACT DETAILS AND LEGAL REPRESENTATIVE(S) OF EACH SUB-CONTRACTOR]

## Annex E: Form of the Deed of Acceptance

No [INSERT NUMBER]

Date: [INSERT DATE IN THE FORM OF 1 January 2020]

Location: [INSERT LOCATION]

For: [INSERT PRINCIPAL], registration number [●], legal address: [●] (the "Principal")

This Acceptance Deed is issued to the Principal by [●] [INSERT NAME, REGISTRATION NUMBER INSERT REGISTRATION NUMBER, LEGAL ADDRESS] (the "Contractor"), represented by [INSERT NAME OF REPRESENTATIVE ON THE BASIS OF INSERT BASIS OF REPRESENTATION].

Whereas:

- (A) the Principal and the Contractor have entered into the Assignment Order No. [●];
- (B) one or more Milestones have been met and/or Deliverables of the Assignment have been completed or the Assignment have been fully completed by the Contractor;
- (C) as stipulated by Clause 10.4 of the Agreement, completion of a Milestone/Deliverable or the Assignment shall be evidenced by means of the Contractor issuing a signed Deed of Acceptance;
- (D) as per Clause 10.5 of the Agreement the Principal following the reception of a signed Deed of Acceptance shall review the submitted Deed of Acceptance and either sign the Deed of Acceptance conforming the compliance of the Services rendered or raise objections by issuing an Objection Notice.

The Contractor hereby confirms that following Deliverable/Milestone has/have been supplied on [INSERT DATE IN THE FORM OF 1 January 2020], as specified in accordance with the Assignment Order No. [●], or the Assignment have been completed in full: [DESCRIBE IN REASONABLE DETAIL THE DELIVERABLE SUPPLIED AND ATTACH THE RESPECTIVE SUPPORTING DOCUMENTATION]

By signing this Deed of Acceptance the Principal confirms in accordance with Clauses 10.5.2 of the Agreement its satisfaction with the result of the Assignment or the Deliverable/Milestone completed and submitted, and the Principal accepts the respective Deliverable/Milestone or the Assignment in its entirety or partly as specified in Clause 10.5.2 of the Agreement. Additionally, the Principal certifies that all of the necessary authorisations for the acceptance of the Deliverable/Milestone or Assignment have been duly received.

Signatures:

For and on behalf of the Principal

[●]

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For and on behalf of the Contractor

[●]

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## Annex F: Declaration of Contractor

I, the undersigned duly authorised representative, on behalf of [*NAME OF THE CONTRACTOR*] undertake:

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

12. To characterize, monitor, control and treat as required prior to discharge or disposal air emissions of volatile organic chemicals, aerosols, corrosives, particulates, ozone depleting chemicals and combustion by-products generated from operations;
13. To reduce or eliminate at the source or by practices, such as modifying production, maintenance and facility processes, materials substitution, conservation, recycling and re-using materials, waste of all types, including water and energy;
14. To adhere to the highest standards of moral and ethical conduct, to respect local laws and not engage in any form of corrupt practices, including but not limited to extortion, fraud, or bribery;
15. To disclose (a) any situation that may appear as a conflict of interest, such as but not limited to: where a Contractor or an undertaking related to the Contractor has advised a Beneficiary or Implementing Body or has otherwise been involved in the preparation of the procurement procedure; and (b) if any **Beneficiaries' or Implementing Bodies' official**, professional under contract with Beneficiary or Implementing Body or sub-contractor may have a direct or indirect interest of any kind in the Contractor's business or any kind of economic ties with the Contractor;
16. Not to offer any benefit such as free goods or services, employment or sales opportunity to a **Beneficiary's and Implementing Body's staff member in order to facilitate the Contractors' business** with Beneficiaries or Implementing Bodies;
17. Within a period set in the applicable national legislation following separation from service or award of a contract, as the case may be, to refrain from offering employment to any **Beneficiaries' and Implementing Bodies' staff in service and former Beneficiaries' and Implementing Bodies' staff** members who participated in the procurement process and to whom a legal restriction to receive material benefits from or be employed by a Contractor which participated in a procurement procedure or restrictions with similar effect applies;
18. To promote the adoption of the principles set forth in this Contractor's **Declaration by my potential** business partners and promote the implementation of the principles set forth in this document towards own Contractors;
19. Not procure goods, works and services from other Contractors:
  - a. Who, or its member of the Management Board or the Supervisory Board or procurator of such Contractor, or a person having the right to represent such Contractor in activities related to a subsidiary, has been found guilty in any of the following criminal offences by a such punishment prescription of prosecutor or a judgement of a court that has entered into effect and is non-disputable and not subject to appeal:
    - i. bribetaking, bribery, bribe misappropriation, intermediation in bribery, taking of prohibited benefit or commercial bribing;
    - ii. fraud, misappropriation or laundering;
    - iii. evading payment of taxes and payments equivalent thereto,
    - iv. terrorism, financing of terrorism, invitation to terrorism, terrorism threats or recruiting and training of a person for performance of terror acts;
  - b. who, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of an infringement of employment rights which means:
    - i. employment of such one or more citizens or nationals of countries, which are not citizens or nationals of the European Union Member States, if they reside in the territory of the European Union Member States illegally;
    - ii. employment of one person without entering into a written employment contract, not submitting an informative declaration regarding employees in respect of such person within a time period laid down in the laws and regulations, which is to be submitted regarding persons who commence work;
  - c. who, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of infringement of competition rights manifested as a vertical Contract aimed at restricting the

opportunity of a purchaser to determine the resale price, or horizontal cartel Contract, except for the case when the relevant authority, upon determining infringement of competition rights, has released the candidate or tenderer from a fine or reduced fine within the framework of the co-operation leniency programme;

- d. whose insolvency proceedings have been announced (except the case where a bailout or similar set of measures is applied within insolvency proceedings oriented towards prevention of possible bankruptcy and restoration of solvency of the debtor, in which case I shall evaluate the possibility of such Contractor to participate in the tender), economic activity of such Contractor has been suspended or discontinued, proceedings regarding bankruptcy of such Contractor have been initiated or such Contractor will be liquidated;
- e. who has tax debts in the country where the procurement is organised or a country where such Contractor is registered or permanently residing, including debts of State social insurance contributions, in total exceeding an amount which is common threshold in public procurements in the respective country.

\_\_\_\_\_[*SIGNATURE*] [*NAME, LAST NAME*] [*POSITION*] [*DATE*]

## Annex G: Contractor's Proposal

[INSERT CONTRACTOR'S PROPOSAL]