**MUTUAL NONDISCLOSURE AGREEMENT**

This Mutual Nondisclosure Agreement (the “**Agreement**”) is made as of [date] (the “**Effective Date**”) by and between

**RB Rail AS**, a company registered in the Latvian Commercial Register under the registration No. 40103845025, having its registered office at K.Valdemāra iela 8-7, Riga, LV-1010, Latvia (“**RB Rail**”), represented by its Management Board Chairperson Agnis Driksna and the Management Board Member Ignas Degutis on the basis of the Regulations of Representation Rights dated 25 May 2018, and

**[NAME]**, personal No [IDENTIFICATION CODE/PERSONAL NO], residence address [RESIDENCE ADDRESS] (“**Recipient**”),

**1.** Purpose. RB Rail will provide to the Recipient certain information on open competition ,,Detailed Technical Design Review and Design Expertise Services for Rail Baltica in Latvia” (RBR 2019/16). This Agreement is intended to allow the parties to work on the specific assignment while protecting RB Rail’s Confidential Information (including Confidential Information previously disclosed to the other party in relation to the purpose indicated in this Clause) against unauthorised use or disclosure.

**2.** Definition of Confidential Information**.** “**Confidential Information**” means any and all RB Rail to the Recipient, including but not limited to any oral, written, graphic or machine-readable ‑ information including, but not limited to, that which relates to patents, patent applications, research, product plans, products, developments, inventions, processes, designs, drawings, engineering, formulae, markets, software (includingsource and object code), computer programs, algorithms**,** business plans, agreements with third parties, services, customers, marketing or finances of RB Rail. The Confidential Information includes, among other things, the respective Recipient experts’ documents and information received by RB Rail under this Agreement regarding the matters mentioned in Clause 1 of this Agreement.

**3.** Nondisclosure of Confidential Information

(a) The Recipient agrees not to use any Confidential Information disclosed to it by the other party for its own use or for any purpose other than the purpose indicated in Clause 1 of this Agreement (the “**Permitted Purpose**”). The Recipient shall not disclose or permit disclosure of any Confidential Information of the other party to third parties. The Recipient and the receiving party (any natural or legal person, any employee or personnel of the Recipient) has had or will inform in writing any person to whom the Confidential Information is to be given pursuant to this sub-Clause of confidential nature of the Confidential Information and that some or all of such Confidential Information may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information. The receiving party (any natural or legal person, any employee or personnel of the Recipient) has had or will inform in writing any person to whom the Confidential Information is to be given pursuant to this sub-Clause of confidential nature of the Confidential Information and ensure that the receiving party will undertake information protections measures not worse than stated in this document. Each party agrees that it shall take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the other party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorised under this Agreement (if any) to have any such information. Such measures shall include, but not be limited to, the highest degree of care that the receiving party utilizes to protect its own Confidential Information of a similar nature, which shall be no less than reasonable care. Each party agrees to notify the other in writing of any actual or suspected misuse, misappropriation or unauthorized disclosure of Confidential Information of the disclosing party which may come to the receiving party’s attention. In any occasion it is the Recipient's responsibility to ensure that any sharing (if the sharing is allowed) of the Confidential Information shall meet the same requirements as the Recipient has in this Agreement

(b) Exceptions. Notwithstanding the above, neither party shall have liability to the other with regard to any Confidential Information of the other which the receiving party can prove:

(i) was in the public domain at the time it was disclosed or has entered the public domain through no fault of the receiving party;

(ii) was known to the receiving party, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure;

(iii) is disclosed with the prior written approval of the disclosing party;

(iv) was independently developed by the receiving party without any use of the Confidential Information of the disclosing party and by employees of the receiving party who have not had access to the Confidential Information, as demonstrated by files created at the time of such independent development; and

(v) becomes known to the receiving party, without restriction, from a source other than the disclosing party without breach of this Agreement by the receiving party and otherwise not in violation of the disclosing party’s rights.

(c) In the event that the Recipient receives a request or demand to disclose all or any part of the Confidential Information under the terms of a subpoena or order issued by a court or competent public authority (the “**Disclosure Order**”), the Recipient agrees to promptly notify RB Rail of the existence, terms and circumstances surrounding such Disclosure Order (save the cases when it is prohibited by law or administrative decree) so that such the disclosing party may seek a protective order or other appropriate relief or remedy and/or waive compliance with the terms of this Agreement. If, failing the entry of a protective order (and exhaustion of any appellate remedies available to the disclosing party) or the receipt of a waiver hereunder, the Recipient, in the opinion of its legal counsel, is compelled to disclose Confidential Information or notes under pain of liability for contempt or other censure or penalty, the Recipient may disclose such Confidential Information to the extent necessary to avoid such liability, censure or penalty without liability hereunder; provided however, the Recipient shall disclose only that portion of the Confidential Information which it is legally required to disclose, and prior to such disclosure, the Recipient shall give RB Rail an opportunity to review the Confidential Information to be disclosed (save the cases when it is prohibited by law or administrative decree).

**4.** Return of Materials**.** All Confidential Information supplied to the Recipient shall be promptly returned to RB Rail, accompanied by all copies of such Confidential Information made by the Recipient, within five (5) business days after the written request and the Recipient shall use its reasonable endeavours to ensure that anyone to whom the Recipient has supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that such recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body, or where the Confidential Information has been disclosed under sub-Clause 3 (c) of this Agreement.

**5.** No Rights Granted**.** Nothing in this Agreement shall be construed as granting any rights under any patent, copyright or other intellectual property right of either party, nor shall this Agreement grant either party any rights in or to the other party’s Confidential Information other than the limited right to review such Confidential Information solely for the Permitted Purpose.

**6.** Term and Termination; Survival of Obligations**.** This Agreement enters into force by signing of all parties to this Agreement and can be terminated by either party to this Agreement with immediate effect by giving a written notice to the other party to this Agreement. Upon termination, the receiving party shall stop making use of the Confidential Information. The obligations of the parties to this Agreement under this Agreement shall survive and shall continue to apply during ten (10) years following expiration or termination of this Agreement for any reason whatsoever.

**7.** Successors and Assigns**.** The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties, provided that Confidential Information of the disclosing party may not be assigned without the prior written consent of the disclosing party. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

**8.** Severability**.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Agreement, (b) the balance of the Agreement shall be interpreted as if such provision were so excluded and (c) the balance of the Agreement shall be enforceable in accordance with its terms.

**9.** Independent Contractors**.** RB Rail and the Recipient are independent contractors, and nothing contained in this Agreement shall be construed to constitute RB Rail and the Recipient as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking.

**10. Governing Law and Dispute Resolution**. This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the Republic of Latvia, without giving effect to principles of conflicts of law. All disputes arising out of or in connection with this Agreement shall be dealt with by amicable negotiation. If the parties are unable to reach an agreement by negotiation, then any dispute, disagreement or claim arising from this Agreement which relates to the same or any breach thereof, termination or invalidity shall be finally resolved in the light of general civil jurisdiction rules of the Republic of Latvia.

**11.** Remedies**.** RB Rail and the Recipient each agree that its obligations set forth in this Agreement are necessary and reasonable in order to protect the disclosing party and its business. RB Rail and the Recipient each expressly agree that due to the unique nature of the Confidential Information, monetary damages would be inadequate to compensate RB Rail for any breach by the receiving party of its covenants and agreements set forth in this Agreement. Accordingly, the parties agree and acknowledge that any such violation or threatened violation shall cause irreparable injury to the disclosing party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the disclosing party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by the receiving party, without the necessity of posting a bond or other security or proving actual damages.

**12.** Amendment and Waiver**.** Any term of this Agreement may be amended with the written consent of RB Rail and the Recipient. Any amendment or waiver effected in accordance with this Section shall be binding upon the parties and their respective successors and assigns. Failure to enforce any provision of this Agreement by a party shall not constitute a waiver of any term hereof by such party.

**13.** Counterparts**.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

**14. Notices.**  Any notice or communication provided under or relating to this Agreement shall be in writing and either hand delivered, deposited in the postal mail, certified with return receipt requested, with postage prepaid, or sent PRIORITY by a nationally-recognised overnight delivery service (i.e. DHL, etc.) and addressed to the party at its address set forth above. Notices shall be deemed delivered when actually received by the intended recipient regardless of the method of delivery. A change of address by a party must be by notice given to the other parties in the manner specified above.

**15. Other Business Activities.** Other than as set forth herein,this Agreement shall not in any manner otherwise affect or limit either party’s present or future business activities or relationships of any nature, including business activities or relationships that may be competitive with those of the other party (save the cases when the parties have agreed otherwise in writing). Each party understands that the other party and its Affiliates are or may be actively engaged in activities, investments, technology exploitation and research and development efforts (collectively “**Business Activities**”) that are similar to its Business Activities, and that information disclosed to the other party may include, without limitation, descriptions of ideas, works in progress and projects in development that are similar to such Business Activities of the other party. Each party agrees that this Agreement shall in no way limit, restrict or preclude the other party from pursuing any of its present or future Business Activities or interests, either alone or in conjunction with others, or from entering into any agreement or transaction of any kind with any other person, regardless of whether the subject matter of any such agreement or transaction involves elements similar to Confidential Information exchanged hereunder or is in any other way similar to or coincident with any transaction considered or evaluated by the parties.

**16. No Commitment of Business Relationship.** This Agreement shall not commit the parties to enter into a business relationship with each other absent a separate written agreement.

**17.** Entire Agreement**.** This Agreement constitutes the entire agreement between such parties pertaining to the subject matter hereof and substitutes all prior negotiations and drafts of the parties with regard to the transactions contemplated herein. Any and all other written or oral agreements existing between the parties hereto regarding such transactions are expressly cancelled.

**18. Authorization.** The person signing this Agreement on behalf of the undersigned has the authority to do so and to bind the undersigned to the terms hereof.

**19.** **Refusal.** Nothing in this Agreement shall obligate either party to this Agreement to disclose any information. Each party to this Agreement has the right to refuse accept any information under this Agreement prior to any disclosure.

**20. No further obligation.** This Agreement does not: (a) create any other relationship; (b) oblige a party to this Agreement enter into any other agreement; or (c) require consideration for any information received.

**21. No Representation, Etc.** Neither the receiving party, nor any of the respective directors, officers, employees, consultants, advisers or agents (a) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by the disclosing party under this Agreement or the assumptions on which it is based or (b) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by the disclosing party under this Agreement or be otherwise liable to the receiving party or any other person in respect of the Confidential Information or any such information.

**22. Definition of Affiliate. “Affiliate”** means, in relation to any person, a subsidiary company of that person or a parent company of that person or any other subsidiary company of that parent company.

**23. Inside Information.** Each party to this Agreement acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation and each party to this Agreement undertakes not to use any Confidential Information for any unlawful purpose.

The parties have executed this Mutual Nondisclosure Agreement as of the date first above written.

|  |  |
| --- | --- |
| **For RB Rail:** | **For the Recipient:** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Agnis DriksnaManagement Board Chairperson | By signing this Agreement, I hereby give permission to process my personal data in accordance with GDPR requirements.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Ignas DegutisManagement Board Member |  |