
FRAMEWORK CONTRACT
ON NOTIFIED BODY (NOBO) SERVICES FOR RAIL BALTICA TRACKSIDE INFRASTRUCTURE TSI CONFORMITY
ASSESSMENT (VERIFICATION)

by and between

a partnership of Certifer SA and Network Rail Certification Body Limited
NoBo

and

RB RAIL AS
as the Principal

where the Principal is also acting in the name and on behalf of

AB "LIETUVOS GELEŽINKELIŲ INFRASTRUKTŪRA",
as the Beneficiary in Lithuania

RAIL BALTIC ESTONIA OÜ,
as the Beneficiary in Estonia

and

sabiedrība ar ierobežotu atbildību "EIROPAS DZELZCEĻA LĪNIJAS"
as the Beneficiary in Latvia

Contract registration No	1.19/LV-30
CEF Agreement/Agreements No	INEA/CEF/TRAN/M2014/104599 INEA/CEF/TRAN/M2015/1129482 INEA/CEF/TRAN/M2016/1360716 and future CEF Agreements
Procurement identification No	RBR 2019/19



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Facility of the European Union**

Riga, 11 June 2020

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THIS FRAMEWORK CONTRACT NO 1.19/LV-30 ON NOTIFIED BODY (NOBO) SERVICES FOR RAIL BALTICA TRACKSIDE INFRASTRUCTURE TSI CONFORMITY ASSESSMENT (VERIFICATION) (the "Contract") is made on 11 June 2020 in Riga by and between:

(1) a partnership, consisting of the companies:

- **Certifer SA**, a company duly incorporated and operating under the laws of the French Republic, registration number: 802053397, VAT registration number: FR28 802 053 397 00039, registered address: 18, Rue edmond membré, 59300 Valenciennes, France, represented by Pierre Kadziola, acting in his capacity of Managing Director, and
- **Network Rail Certification Body Limited**, a company duly incorporated and operating under the laws of the United Kingdom of Great Britain and Northern Ireland, registration number: 07885266, registered address: 1 Eversholt Street, London, United Kingdom of Great Britain and Northern Ireland, represented by Samuel Bruncker, acting in his capacity of Managing Director,

hereinafter referred to as "*NoBd*", represented by general partner **Certifer SA**, acting in accordance with the partnership agreement concluded between both companies, on one hand,

and

(2) **RB Rail AS**, a joint-stock company registered in the Republic of Latvia, uniform registration number: 40103845025, tax registration number: LV40103845025, registered address: **Krišjāņa Valdemāra iela 8-7**, LV-1010 Riga, Latvia, hereinafter referred to as "*the Principal*", represented by the Chairperson of the Management Board Agnis Driksna in accordance with the decision of the Management Board No 1/23/2020 dated 29 April 2020, acting as the sovereign party hereto with regard to the Verification Services to be received in the Republic of Latvia,

also acting in the name and on behalf of the following entities with regard to the Verification Services to be received in Lithuania, Estonia and Latvia, respectively:

(3) **AB "LIETUVOS GELEŽINKELIŲ INFRASTRUKTŪRA"**, registration number: 305202934, VAT number: LT100012666211, registered address: Mindaugo g. 12, LT-03225 Vilnius, Lithuania, hereinafter referred to as "*the Beneficiary in Lithuania*", which is represented by the Principal on the basis of Clause 3.2.2. and 3.3.1 of the Contracting Scheme Agreement,

(4) **RAIL BALTIC ESTONIA OÜ**, registration number: 12734109, tax registration number: EE101954107, registered address: Endla tn 16, Tallinn, 10142, Estonia, hereinafter referred to as "*the Beneficiary in Estonia*", which as mentioned above is represented by the Principal on the basis of Clause 3.2.2. and 3.3.1 of the Contracting Scheme Agreement, and

(5) **sabiedrība ar ierobežotu atbildību "EIROPAS DZELZCEĻA LĪNIJAS"**, registration number: 40103836785, VAT number: LV40103836785, registered address: **Gogoļa iela 3, Rīga, Latvia**, hereinafter referred to as "*the Beneficiary in Latvia*", which is represented by the Chairperson of the Management Board Kaspars Vingris and Management Board Member **Tālis Laizāns**, and as a company represented by the Principal,

on the other hand.

WHEREAS,

- This Contract is entered into as part of the Project of Rail Baltica 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 design, build, render operational and commercialise the Rail Baltica railway – a new fast conventional double track electrified railway line European standard gauge (1435mm) on the route from Tallinn through Pärnu-Rīga-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;
- For the purposes of the Contract, the Principal acts for itself and also as a Central Purchasing Body for the **beneficiaries'** (ministries of transport in the corresponding Republic of Lithuania and Estonia) designated Implementing Bodies (for the purposes of the Contract implementation these Implementing Bodies identified above are defined as the Beneficiaries), namely, for the Beneficiary in Estonia and the Beneficiary in Lithuania, as per Clause 3.2.2. and 3.3.1 of the Contracting Scheme Agreement, and as a representative of the Beneficiary in Latvia. The Beneficiaries authorize the Principal and assign to the Principal all rights (including, but not limited to, claiming performance in adjudication, arbitration proceedings or otherwise, claiming damages, statutory interest and contractual penalties, enforcement of the contract performance security, insurance, enforcement of the warranty obligations etc.) that may arise from this Contract. All claims made by the Principal against NoBo are made on behalf of itself and/or on behalf of the corresponding Beneficiary;

- For clarity, it shall be understood that the Principal will practically purchase the Verification Services towards activities managed by the Beneficiaries which are ultimate recipients of the Verification Services to be provided concerning the parts of the Project and which relate to activities of the corresponding Beneficiary;
- The Principal hereby also acts as a sovereign party hereto with regard to the Verification Services to be received in the Republic of Latvia and which relate to activities of the Principal;
- The Principal has organised a public procurement concerning „**Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (verification)**” (procurement No RBR 2019/19) **in which NoBo’s proposal was selected as the winning bid in accordance with the public procurement’s terms and conditions;**
- **In accordance with NoBo’s Tender NoBo offered to carry out, perform and complete the** Verification Services;
- The Verification Services provided hereunder shall be paid for by the Principal and by the Beneficiaries, as the case may be, pursuant to the procedure specified in the Contract;
- This Contract is co-financed from the Connecting Europe Facility (CEF) Contracts No INEA/CEF/TRAN/M2014/104599, INEA/CEF/TRAN/M2015/1129482, NEA/CEF/TRAN/M2016/1360716 and future CEF contracts (agreements).

NOW, THEREFORE, the Principal, the Beneficiaries and NoBo have entered into the present Contract as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1. In the Contract, unless a different meaning is required by the context, the following terms when capitalised shall have the following meanings:
- 1.1.1. **Beneficiary** – shall mean any of the Beneficiaries severally as the case may be under the Contract;
 - 1.1.2. **Beneficiary in Estonia** - shall have the meaning indicated in the introductory part of the Contract;
 - 1.1.3. **Beneficiary in Latvia** – shall have the meaning indicated in the introductory part of the Contract;
 - 1.1.4. **Beneficiary in Lithuania** - shall have the meaning indicated in the introductory part of the Contract;
 - 1.1.5. **Beneficiaries** – shall mean the Beneficiary in Estonia, the Beneficiary in Latvia and the Beneficiary in Lithuania jointly;
 - 1.1.6. **Business Day** – business day in the Republic of Latvia, Republic of Lithuania and/or Republic of Estonia, as the case may be;
 - 1.1.7. **Commencement Date** – the day when the Deed on Commencement is signed by the Principal and NoBo in line with the terms of the Contract;
 - 1.1.8. **Contract** – the present contract, including all the annexes hereto, also the amendments and supplements of the Contract and/or of the annexes hereto concluded under the Contract;
 - 1.1.9. **Contract Price** – total maximum amount, referred in Clause 9.1 of the Contract, payable to NoBo for the provision of the Verification Services in case of proper and full completion of all the Work Packages provided by the Verification Programme and which amount includes, without limitation, the costs for works and labour, travel and accommodation, per-diem, machines, tools and transport, work organisation, taxes (excluding VAT), insurance costs, costs related to drafting all relevant documents and their translations, inspection, testing, receipt of all relevant approvals and permits, including products, materials and equipment needed to properly perform the Verification Services based on all-inclusive Contract concept and subject to conditions of Sections 10 and 15 of the Contract;
 - 1.1.10. **Contracting Scheme Agreement** - Agreement on the Contracting Scheme for the Rail Baltic / Rail Baltica between RB Rail AS, Ministry of Economic Affairs and Communications of the Republic of Estonia, Ministry of Transport of the Republic of Latvia, Ministry of Transport and Communications of the Republic of Lithuania, Consumer Protection and Technical Regulatory Authority of the Republic of Estonia, Rail Baltic Estonia OU, **sabiedrība ar ierobežotu atbildību "EIROPAS DZELZCEĻA LĪNIJAS"**, **AB "Lietuvos geležinkeliai"**, Rail Baltica Statyba UAB, and **AB "Lietuvos geležinkelių infrastruktūra"**, concluded on 30 September 2016;

- 1.1.11. **Deed on Commencement** – a deed, substantially in the form attached hereby as Annex 8, to be signed by the Principal and NoBo in support of submission by NoBo to the Principal of the documents referred in Clause 4.1 hereof;
- 1.1.12. **Design Guidelines** – a set of predefined and standardized technically and economically justified engineering and design solutions for Rail Baltica infrastructure to be applied at design, construction and operation phases of Rail Baltica Railway;
- 1.1.13. **Design Priority Section** – Part of Design Section identified as separate Rail Baltica railway line section for planning of the Design Services and management purposes.
- 1.1.14. **Directive (EU) 2016/797** – Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (or any replacement thereof);
- 1.1.15. **Directive 2008/57/EC** - Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (or any replacement thereof);
- 1.1.16. **'EC' certificate of verification** – certificate issued by NoBo as a result of the Verification Services, providing, *inter alia*, the reference to the TSIs with which the conformity has been assessed;
- 1.1.17. **Force Majeure** – events beyond the control and responsibility of the Parties (for example, warfare, strikes, enactments adopted by state or municipal authorities, etc., along with other circumstances beyond the reasonable control of the Parties), which could neither be foreseen, nor prevented by the Party;
- 1.1.18. **Implementing Bodies** - shall mean the Beneficiaries, Consumer Protection and Technical Regulatory Authority of the Republic of Estonia, registration number: 70003218, registered address: Endla 10a, 10142 Tallinn, Estonia, **UAB „Rail Baltica statyba”** registration number: 303227458, registered address: Mindaugo g. 12, LT-03603 Vilnius, Lithuania, **AB „Lietuvos geležinkeliai”**, registration number: 110053842, registered address: Mindaugo g. 12, LT-03603 Vilnius, Lithuania or **AB “Lietuvos geležinkelių infrastruktūra”**, registration number: 305202934, registered address: Mindaugo str. 12, LT-03225 Vilnius, jointly;
- 1.1.19. **Implementing Body** - shall mean any of the Implementing Bodies severally as the case may be under the Contract;
- 1.1.20. **Inception Report** – the inception report, issued by NoBo, as per Clause 5.1 of the Contract;
- 1.1.21. **ISV** - intermediate statements of verification, the procedure whereby NoBo checks and certifies, by issuing a certificate, certain parts of the subsystem or certain stages of the Verification Programme;
- 1.1.22. **Laws** – laws and other statutory regulations in force in the Republic of Latvia, the Republic of Lithuania and/or the Republic of Estonia, as the case may be, including, without limitation, those approved within the EU, such as TSI of the European Union railway system;
- 1.1.23. **NSAs** - National Safety Authorities in the Republic of Estonia, the Republic of Latvia and/or the Republic of Lithuania;
- 1.1.24. **NoBo** – notified body, shall have the meaning indicated in the introductory part of the Contract;
- 1.1.25. **Order** – the Principal's order issued in the written form or electronically by the authorised representative of the Principal to the authorised representative of NoBo;
- 1.1.26. **Order Commencement Date** – the day when NoBo shall start to perform the Verification Services towards ordered Work Package in line with the terms of the Contract. It shall be understood that Order Commencement Date shall be the twentieth (20) Business Day after issuing the Order, if no later date is indicated in the Order by the Principal;
- 1.1.27. **Parties** – the Principal, the Beneficiaries and NoBo jointly;
- 1.1.28. **Party** – the Principal, the Beneficiaries and NoBo severally;
- 1.1.29. **Principal** – shall have the meaning indicated in the introductory part of the Contract;

- 1.1.30. **Procurement** – public procurement carried out by the Principal concerning „**Notified Body (NoBo) services for Rail Baltica Railway trackside infrastructure TSI conformity assessment (verification)**” (procurement No RBR 2019/19);
- 1.1.31. **Project** – Rail Baltica public use railway infrastructure project within the framework of which a new 1435 mm or European standard gauge railway line will be built in the Baltic States, as described in the Procurement documents;
- 1.1.32. **Remuneration** – amount payable to NoBo for the completion of the specific Work Package provided in Annex 6 of the Contract and ordered by the Principal, and which amount includes, without limitation, the costs for works and labour, travel and accommodation, per-diem, machines, tools and transport, work organisation, taxes (excl. VAT), insurance costs, costs related to drafting all relevant documents and their translations, inspection, testing, receipt of all relevant approvals and permits, including products, materials and equipment needed to properly perform the Verification Services based on all-inclusive Contract concept and subject to conditions of Sections 10 and 15 of the Contract;
- 1.1.33. **Report** – a statement, issued by NoBo under the Work Package, which provides for the issuance of **NoBo’s** report as a deliverable, and whereby NoBo certifies upon making required assessments, that no inconsistencies, relevant to the Verification Services provided hereunder by NoBo, have been identified by NoBo concerning the respective document and/or object (i.e., Master Design, Detailed Technical Design, construction, testing, etc.), which is being assessed under the specific Work Package;
- 1.1.34. **Design Section** – a separate design, construction and testing section of the Rail Baltica railway and local facilities, which forms part of the railway infrastructure, as provided under Annex 7 of the Contract and as described in further detail in the Procurement documents (Technical Specification, Annex 5). In order to structure and prioritise design, construction and testing works, Design Sections are divided into different Design Priority Sections;
- 1.1.35. **SPPI** – the annual services producer price index of the Euro area (Eurozone) (classification of economic activities: legal, accounting and management consultancy activities), published by Eurostat at https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sts_sepp_a&lang=en;
- 1.1.36. **Transfer-Acceptance Deed** – a deed, substantially in the form attached hereby as Annex 2, to be signed by the Principal and NoBo in support of the transfer by NoBo and acceptance by the Principal of the deliverables (reports, certificates, technical files, etc.) to be produced pursuant to the Contract by NoBo;
- 1.1.37. **TSI** – technical specification of interoperability, a specification adopted in accordance with the Directive 2008/57/EC or Directive (EU) 2016/797 (or any replacement thereof as per applicable conditions pursuant to the Contract and Laws), by which each subsystem or part subsystem is assessed in order to meet the essential requirements and ensure the interoperability of the rail system;
- 1.1.38. **VAT** – value added tax pursuant to the requirements of the Laws;
- 1.1.39. **Verification** – the procedure whereby NoBo checks and certifies, by issuing a certificate, that the respective subsystem, constituting part of the Project, complies with the relevant TSI(s);
- 1.1.40. **Verification Programme** – the programme for provision of Verification Services, provided in Annex 7 hereof, and containing the data on the Work Packages to be completed by NoBo under the Contract;
- 1.1.41. **Verification Services** – shall have the meaning as defined in Section 2 of the Contract;
- 1.1.42. **Work Package** – specific works (services), which form part of Verification Services, to be ordered by the Principal and completed by NoBo as provided in the Contract and, in particular, the Verification Programme and the Inception Report pursuant to the Contract conditions.
- 1.2. **The term “reasonable efforts” will include the efforts and endeavours that a prudent person desirous of achieving a result would use in similar circumstances to ensure that the result is achieved, provided, however, that a person required to use his/her reasonable efforts will not be required to take actions that would be unlawful or would be significantly and materially detrimental to such person under this Contract;**
- 1.3. **References to the “knowledge” or “awareness” of a person are deemed to include any knowledge or awareness, which the person would have if the person had made all diligent and reasonable enquiries.**

- 1.4. Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative (“including but not limited to”) and shall not limit the sense of the words preceding those terms.
- 1.5. Section headings are inserted in this Contract for ease of reference only and do not affect the interpretation of this Contract.
- 1.6. Any interpretation of the Contract or its specific part shall be carried out based on the most honest and diligent cooperation principles and based on the fact that Rail Baltica **is a greenfield megaproject and one of Europe’s** flagship initiatives where NoBo plays a crucial role with respect to the Verification Services to be provided to launch the Project into operation, **so NoBo’s experience and professional input shall** be put in place in order to path the way to achieve this target by assisting the Principal.
- 1.7. All Annexes and the amendments and supplements of the Contract and/or Annexes hereto concluded under the Contract form an integral part of this Contract.
- 1.8. No presumption shall operate in favour of or against any Party as a result of any responsibility that any Party may have had for drafting this Contract.
- 1.9. As used in this Contract, words in the singular shall include the plural, references to one gender shall include the other, references to a person shall include natural and legal persons, and references to the entire document shall include references to its part and in each case vice versa.
- 1.10. If any of the provisions of the Contract text contradicts to the Annexes of the Contract, the provisions of the Contract shall prevail as far as it is necessary to secure full provision of the Verification Services, yet the conditions **of the Contract’s Annexes shall be considered** to the extent required to implement any specific issue covered by **Contract’s Annexes**.

2. SUBJECT MATTER OF THE CONTRACT

- 2.1. In accordance with the terms and conditions of the Contract, the Principal entrusts and NoBo undertakes to **provide the following services** („Verification Services“):
 - 2.1.1. carrying out the Verification as defined in Directive (EU) 2016/797 and Directive 2008/57/EC for all the Subsystems forming part of the railway infrastructure (ENE, INF, CCS) for the purpose of issuance **of respective ‘EC’ certificates of verification**.
 - 2.1.2. The Verification Services to be provided under the Contract are split into and consist of Work Packages to be completed by NoBo per each Design Priority Section and subsystem thereof, as the case may be. Each Work Package, which forms part of the Verification Services, is provided in the Verification Programme.
- 2.2. Under the Contract NoBo shall be required to carry out and the Verification Services referred under Clause 2.1 of the Contract shall include:
 - 2.2.1. Proactive elaboration and coordination of the Verification Programme (or respective part thereof, which concerns particular country) with NSAs as may be required during the Contract execution;
 - 2.2.2. Assessment of the design, construction and final testing of each subsystem referred under Clause 2.1 of the Contract, in respect of which the Order was issued, and issuance (as appropriate) of the deliverables per each specific Work Package (Report, **‘EC’ certificate of verification**, ISV, etc.). Without prejudice to other provisions of the Contract, the task of NoBo shall begin at the design stage and cover the entire construction and testing period through to the acceptance stage and issuance of the authorisation for placing of the subsystem in service;
 - 2.2.3. Assessment of all the constituent parts of the subsystems, in respect of which the Order was issued, and other items which fall under responsibility of NoBo and pursuant to Clause 2.1 of the Contract, and considering requirements of TSI(s) referred thereto and Laws;
 - 2.2.4. Assessment of Quality Management Systems as required for the execution of Verification Services according to the module selected for the Verification of subsystems;
 - 2.2.5. Periodic inspections based on requests of the Principal having regard of the Verification Programme and/or as required by Law, in order to confirm compliance of the respective stages of implementation of the Project with the relevant TSI(s) and provision to the Principal of the respective

inspection reports. Without prejudice to other provisions of the Contract, the task of NoBo to prepare and provide to the Principal the respective inspection reports shall be carried out in a well-organized and structured way, systematically and **based on the Principal's requests and NoBo's initiative** on a reasonable basis and as far as it is required to perform Verification Services;

- 2.2.6. Pro-active provision of critical and other required information and comments to the Principal eventually required for the Principal and/or for the Beneficiaries during performance of the Contract for the efficient implementation of the Verification Services and based on good-faith and good cooperation principles;
 - 2.2.7. Review of and input on the Project relating draft and final documents of the Principal or other Project stakeholders (procurement documents, supply, building contracts, etc.) to the extent relevant to the Verification Services (e.g., concerning the conformity requirements for the supplies to be made under contracts, documents to be provided by the suppliers (such as **'EC' declarations of conformity** or suitability for use, etc.));
 - 2.2.8. Review of and comments/input on any interim or final documents, reports, drawings, etc., relating to the Project (including, without limitation, the review of early stage and/or initial design documents/packages), as from time to time may be requested by the Principal for the purpose of coordination and facilitation of timely and efficient provision of the Verification Services;
 - 2.2.9. Participation in meetings, calls, on-site visits for the purpose of provision of the Verification Services or as required by the Principal. For avoidance of doubts, the need for such meetings, calls, on-site visits can be raised and they can be initiated also by the Beneficiaries and/or other Project-related parties, as they shall approach for this purpose the Principal who, in turn, will be entitled to organize **the same and request for NoBo's participation**. In this respect NoBo shall approach the Principal in case if NoBo receives request to participate in meeting, call, on-site visit or any other similar request **not from the Principal, and shall ask for the Principal's decision** or instruction, etc.;
 - 2.2.10. Support, to the extent related to the Verification Services, in the process of placement of the subsystems, in respect of which **'EC'** certificates of verification were issued, in service, including the process of obtaining the required permits from the respective regulators and authorities in the Republic of Latvia, the Republic of Lithuania and the Republic of Estonia. For avoidance of doubts, where the process of placement of the subsystem into service is being handled by the Beneficiaries or other Project stakeholders, NoBo shall liaise with the Principal, who, in turn, shall liaise with the relevant Beneficiary and/or other Project stakeholder and vice versa;
 - 2.2.11. Other such services, activities, support, deliverables, etc. by NoBo, as are required under the Laws and NoBo duties in provision of the services such as the Verification Services;
 - 2.2.12. Other such services as described pursuant to the Technical Specification (Annex 5).
- 2.3. NoBo shall not be entitled to any additional Remuneration, other than expressly provided under the Contract. For the avoidance of doubt, it is confirmed that the tasks, activities, deliverables, etc. referred in Clause 2.2 of the Contract form part of the Verification Services referred to in Clause 2.1. of the Contract and NoBo shall not be entitled to remuneration for the same other than the Remuneration payable to NoBo for the Verification Services referred in Clause 2.1 of the Contract.
 - 2.4. NoBo shall be required to behave proactively and initiate on its own the respective tasks, activities, deliverables, etc. (and/or notify the Principal thereof, as the case may be) under Clause 2.2 of the Contract as and when reasonably necessary, for the purpose of timely and proper delivery of the Verification Services and completion of the Project.
 - 2.5. NoBo hereby represents that it has reviewed all the documents on the Project, available to it, and made all enquiries needed for it to understand the scope, duration, complexity uncertainties and other circumstances surrounding the Project and will be capable of performing under the Contract as prescribed hereby. It is understood, for these purposes, that as of the date hereof, the Project is at its early stage of implementation, as a result, multiple factors, such as, the design and construction solutions, specific design, construction, services and/or works companies, other suppliers and stakeholders, number, size and other parameters of the objects/constituents to be produced/implemented, potential amendments to TSIs throughout the term of validity of the Contract and resulting changes to the scope of the work to be completed by NoBo, any derogations from TSIs, transitional periods or specific cases that may apply, are not known to the Parties which, however, shall not affect the terms and conditions of provision of the Verification Services by NoBo, in particular, the Contract Price established hereby. NoBo confirms its understanding that, due to the complex Project implementation

structure and procurement procedures the Principal's intention is to retain one NoBo for the Project in its entirety as it would be detrimental to the Principal if, for whatever reason, a new contractor would require to be engaged for the provision of the Verification Services. NoBo further confirms that it is well informed of the initiatives for the new TSIs (e.g., TSI on the '**Control-command and signalling**' subsystems) which, if adopted, may result in the changes to the volumes of NoBo work hereunder.

- 2.6. NoBo confirms its understanding and accepts that the Verification Services will be provided in all of – the Republic of Latvia, the Republic of Lithuania and the Republic of Estonia. NoBo also accepts that the Verification Services shall be rendered with regards to all objects/deliverables produced within the Project and which are subject to Verification pursuant to requirements of Law, regardless if such objects/deliverables are specifically included in existing Project documents.
- 2.7. The Parties confirm their mutual understanding and agree that, for the purposes of the Contract and notwithstanding the information mentioned in the preamble, the Principal acts, in particular:
 - a) for itself and for the Beneficiary in Latvia, as regards the Verification Services to be provided concerning the Latvian part of the Project,
 - b) as a Central Purchasing Body for the Beneficiary in Lithuania, as regards the Verification Services to be provided concerning the Lithuanian part of the Project, and
 - c) as a Central Purchasing Body for the Beneficiary in Estonia, as regards the Verification Services to be provided concerning the Estonian part of the Project.
- 2.8. Except where the Principal instructs NoBo otherwise, the Principal shall act as the sole Contract administration body and sole representative of the Beneficiaries and any other stakeholders with regards to NoBo and shall be the sole addressee and contact person for NoBo concerning all and any Contract relating matters, including, without limitation, handling of any communication, ordering the Verification Services, receiving and accepting deliverables from NoBo and, more generally, coordinating and completely administrating overall performance of the Contract. For clarity, unless otherwise provided in the Contract or requested by the Principal, NoBo shall not be entitled to accept Orders, provide deliverables, request information and/or documents, etc. under the Contract directly from/to the Beneficiary, the Implementing Bodies and from/to any other stakeholder involved in the Project implementation.
- 2.9. Unless otherwise provided in the Contract or requested by the Principal, the Beneficiaries hereby undertake and the Principal shall also cause any other Implementing Body as may be required to carry out all and any activities (such as, for example, submission of documents and information, making enquiries, initiating Orders for the Verification Services, etc.) with regards to NoBo via the Principal (i.e., by addressing the Principal, who, in turn, will liaise with NoBo and instruct NoBo accordingly).
- 2.10. Acting as a representative of the Beneficiaries, the Principal is authorised and is assigned all rights of the Beneficiaries against NoBo (including, but not limited to, claiming performance in adjudication and arbitration proceedings or otherwise, claiming damages, statutory interest and contractual penalties, enforcement of the contract performance security, insurance enforcement of the warranty obligations, termination of the Contract, etc.) that may arise from this Contract, pursuant to the procedures defined in the Contract.
- 2.11. Nothing in this Contract limits the scope of activities and obligations of NoBo, as imposed by the Laws on the notified bodies with regard to the activities such as those assumed by NoBo under the Contract.

3. REQUIREMENTS FOR THE PROVISION OF SERVICES

- 3.1. In the performance of the Verification Services, NoBo shall exercise an adequate level of skill, care and diligence to be expected from a supplier that is providing services of such nature to the clients that are acting outside their usual professional competence.
- 3.2. NoBo shall plan and render the Verification Services so that their output (work-in-progress and deliverables) are to the maximum extent possible aligned time-wise and substance-wise with the design, construction and testing in relation to all Sections and objects (structures) of the Project. NoBo hereby represents that it has and will, throughout the period of the Contract, take into account the Project implementation documents (such as, without limitation, design review, design expertise, construction and design supervision documents, the Design Guidelines, etc.). The Verification Services shall be carried out in parallel to other Project implementation activities (design, construction, supervision, testing, etc.), **whereas NoBo shall ensure that it's activities hereunder shall not result in extension and/or delays in works and/or deliveries by other parties engaged in Project implementation (such as, without limitation, design, construction, supervision entities), unless in case of discovery by NoBo of major discrepancies with TSIs.**

- 3.3. NoBo shall carry out the Verification Services with the most reasonable, responsible and professional integrity and technical competence and must refrain of any pressure and incentive, in particular of a financial type, which could affect its judgement or the results of its Verification Services, in particular from persons or groups of persons affected by the results of the Verification Services, including NSAs, incumbent infrastructure managers as well as other regulatory and supervisory authorities and institutions, and private bodies.
- 3.4. NoBo shall comply with all Laws and regulations, statutes, ordinances and other forms of standards, codes of practice and national legislation applicable to the Verification Services and the Contract.

4. DEED ON COMMENCEMENT

- 4.1. No later than within twenty (20) Business Days after the signature of the Contract by the Parties, NoBo shall provide to the Principal:
 - 4.1.1. Performance bond, in line with Clause 12.1 of the Contract hereof;
 - 4.1.2. Insurance policy, in line with Clause 11.1 of the Contract hereof.
- 4.2. The Principal shall review the documents submitted in line with Clause 4.1 of the Contract and no later than within ten (10) Business Days of receipt of all documents mentioned in Clause 4.1 of the Contract notify NoBo of any inconsistencies (if any), which shall be rectified by NoBo immediately, but in any case no later than within five (5) Business Days.
- 4.3. Upon submission of the proper documents referred to in Clauses 4.1 of the Contract and/or 4.2 of the Contract the Principal and NoBo shall no later than within ten (10) Business Days (in case of first submission as per Clause 4.1 of the Contract) or five (5) Business Days (in case of second submission as per Clause 4.2 of the Contract) sign the Deed on Commencement.

5. INCEPTION REPORT

- 5.1. NoBo shall prepare the Inception Report and submit it to the Principal for review and coordination within thirty (30) Business Days from the Commencement Date. For avoidance of doubts, it is confirmed that the Parties shall not be required to issue and/or sign any separate requests or other documents in support of commencement of the time period of thirty (30) Business Days, as is set for the preparation and submission to the Principal of the Inception Report even though preparation of the Inception Report is considered as a separate Work Package.
- 5.2. The Inception Report shall contain information prescribed in the Procurement documents (Technical Specification, Annex 5).
- 5.3. Not later than within ten (10) Business Days after the date of submission of the Inception Report to the Principal, NoBo at the premises of the Principal and at the time agreed upon with the Principal shall arrange, manage and record the Inception meeting for the purpose of presenting the Inception Report to the Principal.
- 5.4. The Inception Report shall be transferred by NoBo to the Principal by signing the Transfer-Acceptance Deed by the Principal and NoBo.
- 5.5. The Principal shall sign the Transfer-Acceptance Deed or issue objections to the Inception Report, no later than within twenty (20) Business Days after the Inception meeting.
- 5.6. In case of objections:
 - 5.6.1. NoBo shall rectify deficiencies within ten (10) Business Days **after receipt of the Principal's objections and transfer the rectified Inception Report (or its respective part) to the Principal**, including the accompanying documents, by signing the Transfer-Acceptance Deed;
 - 5.6.2. the Principal shall be required to sign the Transfer-Acceptance Deed no later than within ten (10) Business Days after the rectification of the issues, which caused the objections by the Principal.
- 5.7. For the avoidance of doubts, acceptance of the Inception Report or confirmation of the content of the Inception meeting shall not deprive the Principal of any of its rights under the Contract or Law to raise claims as regards the timelines and/or quality of the Inception Report. Where the Principal has minor objections, comments or recommendations on the Inception Report (e.g., where the Inception Report is in line with essential requirements under the Contract), the Principal may, at its sole discretion, choose to accept the Inception Report by signing the

Transfer-Acceptance Deed, in which case NoBo shall be required to respectively update the Inception Report and submit it to the Principal no later than within ten (10) Business Days after the Principal signs the Transfer-Acceptance Deed.

- 5.8. NoBo shall update the Inception Report as and when needed throughout the term of validity of the Contract and will notify the Principal thereof without delay by submitting to the Principal the updated version of the Inception Report. Unless from time to time otherwise agreed by the Parties, the Inception Report shall be updated no later than within fifteen (15) Business Days upon occurrence of events and/or circumstances which cause the need for the update. For avoidance of doubts, no fees, compensation of costs, etc. shall be payable to NoBo for the updates of the Inception Report. Any updates and/or changes to the Inception Report shall be subject to approval of the Principal within fifteen (15) Business Days upon receipt of the updated Inception Report.
- 5.9. The Principal shall be entitled to refuse any updates and/or changes which have an adverse impact on the Principal, unless in case such updates and/or changes are required due to the fault of the Principal and/or the parties engaged by the Principal for the purpose of the Project implementation.

6. RIGHTS AND OBLIGATIONS OF THE PARTIES

- 6.1. NoBo undertakes to involve in the performance of the Contract only **key-persons indicated in NoBo's tender and competent, qualified and highly experienced NoBo's experts for the successful completion of the** Verification Services.
- 6.2. NoBo, for its part, undertakes to carry out all reasonable efforts and necessary activities so that the Verification Services performed in the framework of the Contract are implemented in due time, good faith, in the adequate quality and based on the best cooperation principles as described in Clause 1.6 of the Contract.
- 6.3. NoBo undertakes to always ensure the compliance with the Laws during the validity term of the Contract and during the performance of the Verification Services. If on the basis of the Law (including, without limitation, Directive (EU) 2016/797), NoBo is required to obtain new and/or additional licences, permits, authorisations, accreditations, notifications and/or comply with other requirements of similar nature, which are necessary for the provision of the Verification Services under the Contract, NoBo shall be required to arrange everything necessary to obtain such licences, permits, authorisations, accreditations, notifications, place proper applications, etc. and/or take actions to be notified as soon as such requirement becomes effective and/or as soon as the relevant Member State has transposed the necessary European Union law provisions into national law and has appointed a notifying authority for a particular European Union harmonisation act. All these activities shall be carried by NoBo in advance in order to avoid any impediment, restriction or delay with respect to the Verification Services.
- 6.4. NoBo undertakes to reasonably cooperate with other stakeholders of the Principal involved in the implementation of the Contract (including, without limitation, the actual and potential Project infrastructure managers, beneficiaries, implementing bodies, etc.) to ensure the performance of the Contract.
- 6.5. NoBo confirms its understanding that the Project stakeholders (including the Implementing Bodies, Project infrastructure managers, etc.) may change during the term of validity of the Contract, which may result in assignment/novation of the Contract **or it's parts** as per the terms and conditions hereof, as well as the requests by the assignees for Variations to the Verification Services, in line with the terms of the Contract. In addition, NoBo confirms its understanding that at the moment of signature of the Contract final decision on future infrastructure manager of **Project's** infrastructure in Estonia, Latvia and Lithuania is not yet adopted, and NoBo shall consider that all options (starting from a single infrastructure manager responsible for the whole railway line and finishing with separate infrastructure managers solutions for each country) are possible. NoBo shall align provision of the Verification Services and any deliverables during the **Project's implementation** stages with the selected approach on infrastructure management. For this reason, NoBo confirms that all relevant and additional Verification Services (if any) are described in Annex 6 of the Contract.
- 6.6. NoBo shall systematically analyse Project implementation performance based on the information available for NoBo and submitted by the Principal and throughout the validity of the Contract NoBo shall introduce updates with respect to the Inception Report or the Verification Programme pursuant to the conditions of the Contract, in particular Clauses 5.8, 5.9, 6.10, 7.9, 7.10 and 7.11 of the Contract.
- 6.7. The Principal undertakes, during the performance of the Contract, to carry out all reasonable efforts to provide NoBo with all the information necessary for the successful and complete execution of the Contract, which is at the disposal of the Principal as well as the organizational support and authorizations. On **Principal's request, the** Beneficiaries shall be required to provide to the Principal the information, which is at the disposal of the Beneficiaries and which is required for submission to NoBo or for other Contract-related purposes.

- 6.8. The Principal and NoBo shall provide answers to the questions to each other in writing and within a reasonable time, which shall not exceed five (5) Business Days, in order not to delay the execution of the Verification Services.
- 6.9. In case of extraordinary circumstances, information pursuant to Clause 6.8 of the Contract shall be provided maximum within ten (10) Business Days provided that corresponding notification is issued within time period indicated in Clause 6.8 of the Contract. The Beneficiaries shall be required to provide answers to the questions raised by the Principal in written if not otherwise agreed with the Principal no later than within three (3) Business Days.
- 6.10. During the execution of the Contract, the Principal shall be entitled to adopt decisions as regards implementation of the Project and make subsequent changes to the Project. Any such changes will not affect the terms and conditions of provision of the Verification Services hereunder, provided that NoBo will not be required to issue deliverables (Reports, **'EC' certificates of verification** and/or ISVs), other than those prescribed by the Verification Programme. In case of changes to the relevant TSIs during the term of validity of the Contract, the Parties will cooperate to reach a mutually acceptable solution on the way forward (e.g., Verification under the newly adopted TSI, derogation from the newly adopted TSI, etc.). Where the Parties have not reached the mutual solution, the Principal shall unilaterally decide on the way forward as NoBo will not be entitled to claim for price adjustment or other changes to the terms of the Verification Services as a result.
- 6.11. NoBo shall implement and apply throughout the term of the Contract quality management system for the purpose of ensuring project management and provision of the Verification Services in line with best industry practice.
- 6.12. The Principal and NoBo, and, as may be required, the Beneficiaries, shall have joint progress meetings as described in the Technical Specification included in Annex 5 of the Contract.
- 6.13. NoBo shall be required to **adhere to the highest standards of moral and ethical conduct and respect Laws at all times. Without limitation to the above, NoBo shall adhere to the:**
- 6.13.1. **Code of Ethics and Conduct, whose current version appears at:** http://www.railbaltica.org/wp-content/uploads/Documentation_library/RB-Rail-Code-Ethics-and-conduct-2015.pdf which may be subject to review and updates from time to time.
- 6.13.2. **Supplier and Sub-Contractor Code of Conduct, whose current version appears at:** http://www.railbaltica.org/wp-content/uploads/2019/03/Common-procurement-standards-and-guidelines_appendix5.pdf which may be subject to review and updates from time to time.

7. VERIFICATION PROGRAMME AND ORDERING OF THE SERVICES

- 7.1. The Verification Programme, including timelines for implementation of each Design Priority Section and Verification Services in respect thereof, is attached as Annex 7. Considering the size and complexity of the Project, the timelines for the implementation of each Design Priority Section, as well as the timing for placement by the Principal of the Orders for respective Work Packages and documents required for the issuance by NoBo of the respective deliverables (Reports, ISVs and/or **'EC' certificates of verification**), as referred to in the Verification Programme, shall be considered as indicative and subject to change by the Principal depending on the actual progress by the Principal (as well as of the other parties involved in the Project implementation) with the implementation of respective Design Sections of the Project.
- 7.2. Any such changes to the timelines indicated in Clause 7.1 of the Contract shall not result in increase of the Contract Price and Remuneration (save for indexation in line with provisions on indexation as per Clause 10.1 of the Contract, and/or subject to the variations conditions as per requirements of the Contract) and shall not otherwise negatively affect the Principal hereunder, and shall be indicated in the updated Inception Report.
- 7.3. The Verification Services (respective part thereof) shall be commenced and provided by NoBo upon issuance by the Principal and submission to NoBo of the Order for respective Work Package. The Order shall be issued substantially in the form hereby enclosed as Annex 9. NoBo cannot commence and perform the Verification Services based on appendix to Order (request for the Verification Services form).
- 7.4. The Principal shall draft and submit the Order to NoBo electronically by sending e-mail of the authorized representative of the Principal to NoBo's e-mail as indicated in Clause 17.3 of the Contract. The Parties agree that the Order can be issued without a signature.

- 7.5. The Beneficiary shall inform the Principal in written on necessity to order respective Work Package no later than twenty-five (25) Business Days before Order Commencement Date and the Principal shall issue respective Order to NoBo within five (5) Business Days.
- 7.6. The Principal shall be entitled to issue Orders with respect to any Work Packages at its sole discretion. The Principal shall only issue Orders concerning issuance of ISVs after (or simultaneously with) the Orders concerning issuance of the Reports leading to the ISV concerned. The Principal shall only issue Orders concerning issuance of **'EC' certificate of verification** after (or simultaneously with) the Orders concerning issuance of the Reports and ISVs leading to the **'EC' certificate of verification** concerned.
- 7.7. Upon receipt of the Order, NoBo shall no later than within five (5) Business Days confirm the commencement of the Verification Services under the Work Package by returning a signed Order in line with Clause 17.3 of the Contract hereof to the Principal or a written confirmation in line with Clause 7.4 of the Contract **to the Principal's** authorized representative.
- 7.8. The provision of the Verification Services under specific Work Package shall commence even where NoBo does not confirm the commencement of the Verification Services (respective part thereof) by returning a countersigned Order to the Principal (or by issuing specific confirmation) pursuant to Clause 7.7 of the Contract. In this event it shall be considered that the Order was approved, countersigned and returned to the Principal on the fifth (5) Business Day after submission of the Order to NoBo. NoBo shall complete the Verification Services (issue respective Reports, **'EC' certificates of verifications** and/or ISVs) within the period prescribed for the respective Service under the Verification Programme.
- 7.9. Upon receipt of the Order, NoBo shall no later than within two (2) Business Days recommend different Order issuance timing if specific Verification Services (or respective part thereof) attributable to the Order shall not be performed starting from Order Commencement Date as per the Order requirements, based on **NoBo's best** opinion and substantial written justification to be provided by NoBo to the Principal by e-mail in accordance with Clause 17.3 of the Contract. In this case the Principal is entitled to:
- 7.9.1. First option – to revoke issuance of the Order by notifying NoBo within three (3) Business Days from receipt of **NoBo's recommendation as per Clause 7.9.** of the Contract. In this case NoBo shall be notified by the Principal by e-mail in accordance with Clause 17.3 of the Contract; or
- 7.9.2. Second option - to revoke issuance of the Order and to align new Order Commencement Date with the respective Beneficiary within five (5) Business Days **from receipt of NoBo's recommendations as per Clause 7.9.2** and request NoBo to provide the Verification Services based on the new Order to be issued to NoBo by the Principal. In this case NoBo shall be notified by the Principal by e-mail in accordance with **Clause 17.3 of the Contract, and NoBo shall comply with this Principal's request;** or
- 7.9.3. Third option – **to request NoBo to provide the Verification Services based on the Order's and the** Contract conditions as per Clause 7.8 of the Contract. In this case NoBo shall be notified by the Principal by e-mail in accordance with Clause 17.3 of the Contract, **and NoBo shall comply with this Principal's** request.
- 7.10. NoBo shall update the Verification Programme as and when needed throughout the term of validity of the Contract and will notify the Principal thereof without delay by submitting the updated version of the Verification Programme. Unless from time to time otherwise agreed by the Parties, the Verification Programme shall be updated no later than within fifteen (15) Business Days upon occurrence of events and/or circumstances which cause the need for the update. For avoidance of doubts, no fees, compensation of costs, etc. shall be payable to NoBo for the updates of the Verification Programme and/or the Inception Report. In any case, any updates and/or changes to the Verification Programme shall be subject to approval of the Principal within twenty (20) Business Days upon receipt of the updated Verification Programme **or it's relevant part.**
- 7.11. The Principal shall be entitled to refuse any updates and/or changes which have an adverse impact on the Principal, unless in case such updates and/or changes are required due to the fault of the Principal and/or the parties engaged by the Principal for the purpose of the Project implementation.
- 8. PROCEDURE FOR THE PROVISION OF VERIFICATION SERVICES AND ISSUANCE OF REPORTS, 'EC' CERTIFICATES OF VERIFICATION AND/OR ISVS**
- 8.1. Verification Services shall be carried out and Reports, ISVs **and/or 'EC' certificates of verification** shall be issued in line with the requirements of the Contract, applicable Laws, in particular, the TSI(s) concerned, and as provided in the Verification Programme and the Inception Report.
- 8.2. The Parties will cooperate to the extent needed for the purpose of achievement of timely issuance as a result of the provision of Verification Services of the respective Reports, **'EC' certificates of verification** and/or ISVs. In

particular, the Parties will coordinate the Verification Services process and agree in good faith and having regard of the requirements of Laws and best market practices, on the particular modules to be applied by NoBo in performance of the Verification Services.

- 8.3. Verification Services shall be carried out in stages, as provided and required by Law and the present Contract and its annexes.
- 8.4. As part of provision of the Verification Services NoBo undertakes to take steps, such as, make enquiries, review documents, review of early stage design, construction and testing phase documentation and BIM information, participate in meetings, etc., for the purpose of timely identification and notification to the Principal of any issues **which, in NoBo's view, may hinder or delay issuance of the respective Reports, 'EC' certificates of verification and/or ISVs.**
- 8.5. Based on the activities carried out in accordance with Clause 8.4 of the Contract NoBo can propose updates with respect to the Inception Report (or its part) or the Verification Programme (or its part) or introduce any other measures required in order to provide the Verification Services for the benefit of the Project.
- 8.6. Upon completion of provision of the Verification Services under respective Work Package, NoBo shall issue, in line with Verification Programme, the respective Report, ISV and/or **'EC' certificate of verification** (including technical file accompanying **'EC' certificate of verification**) and all other documents required pursuant to Clause 8.10 of the Contract.
- 8.7. Should NoBo establish, as part of the Verification Services, any inconsistency in the subsystem being assessed or the documents or other deliverables submitted by the Principal to NoBo for the purposes of provision of the Verification Services, NoBo shall immediately, but not later than within 5 (five) Business Days, notify thereof the Principal, by specifying the inconsistencies identified and suspend provision of the respective part of Verification Services. In this case:
 - 8.7.1. **Reports, ISVs and/or 'EC' certificates of verification shall only be issued by NoBo after all inconsistencies have been rectified, so that the Reports certify that no inconsistencies, relevant to Verification Services provided hereunder by NoBo, have been identified by NoBo upon assessment of the respective object, stage or assessment element (i.e., Master Design, Detailed Design, Construction, Testing, etc.), and ISVs and/or 'EC' certificates of verification certify that the respective subsystem, constituting part of the Project, complies with the relevant TSI(s);**
 - 8.7.2. The terms for the Verification Services and issuance of respective Reports, **'EC' certificates of verification** and/or ISVs shall be automatically extended for the period of rectification of inconsistency;
 - 8.7.3. NoBo shall immediately reopen the Verification Services upon receipt of notice of the Principal and respective documents, as the case may be, to support rectification of inconsistencies;
 - 8.7.4. NoBo shall not be entitled to increase of Remuneration and/or variation to the Contract as a result of suspension and/or inconsistencies referred herein, unless in case of unreasonable repeated re-submission by the Principal to NoBo of the documents/deliverables, containing repetitive manifest errors on the side of design/construction entity(ies), provided such errors have been established by NoBo and specified to the Principal on initial review of the documents/deliverables and, further, provided that such repeated re-submission and review by NoBo results in considerable (having regard of the particular Verification Services in question) increase in load of work by NoBo.
- 8.8. NoBo shall review and update work-in-progress deliverables, as well as deliverables, which have already been issued by NoBo under the Contract (including, without limitation, Reports, **ISVs and/or 'EC' certificates of verification**), and will issue the new deliverables, where such review, update and issuance of the new deliverables is required either by Law or by the Principal (for example, due to the Project implementation changes, resulting in the new, revised, updated, additional or otherwise changed documents, information or other deliverables (such as, for example, updated Master Design documents, Detailed Technical Design documents, etc.)).
- 8.9. In case mentioned in Clause 8.8 of the Contract NoBo shall proceed with such review, update and issuance of the new deliverables without delay and complete the same within the reasonable timeframe agreed with the Principal, or unilaterally set by the Principal in case no agreement is reached between NoBo and the Principal. NoBo shall not be entitled to increase of and/or additional Remuneration and/or variation to the Contract in relation to such review, update and issuance of the new deliverables, unless in case such review, update and issuance of new deliverables: a) is requested by the Principal, and b) such request being issued repeatedly (i.e., at least for the second time) with regards to the same deliverable of NoBo, and c) such request being issued with regards to deliverable, which had already been issued by NoBo and accepted by the Principal.

- 8.10. Reports, ISVs and/or **'EC' certificates** of verification shall be issued with all the accompanying documents (technical file, etc.), as required by the Contract and/or Law, including Directive (EU) 2016/797 or Directive 2008/57/EC.
- 8.11. Reports, ISVs and/or **'EC' certificates** of verification, including the accompanying documents, shall be transferred by NoBo to the Principal by signing the Transfer-Acceptance Deed. The Principal shall be required to sign the Transfer-Acceptance Deed concerning the particular Report, ISV and/or **'EC' certificate of verification, or issue objections**, no later than within twenty (20) Business Days upon submission to the Principal of the Report, ISV and/or **'EC' certificate of verification** and Transfer-Acceptance Deed, signed on behalf of NoBo.
- 8.12. In case of objections:
- 8.12.1. NoBo shall rectify **deficiencies within ten (10) Business Days after receipt of the Principal's objections and transfer the Report, ISV and/or 'EC' certificate of verification, including the accompanying document to the Principal by signing the Transfer-Acceptance Deed;**
- 8.12.2. The Principal shall be required to sign the Transfer-Acceptance Deed no later than within ten (10) Business Days after the rectification of the issues, which caused the objection by the Principal.
- 8.13. It shall be considered that NoBo completed a Work Package upon signature by NoBo and the Principal of the Transfer-Acceptance Deed. For the avoidance of doubts, acceptance of the Report, **'EC' certificate of verification** and/or ISV shall not deprive the Principal of any of its rights under the Contract or Law to raise claims as regards the timelines and/or quality of the provided Verification Services. The rules prescribed hereby shall also apply with regards to other deliverables to be produced by NoBo under the Contract.
- 8.14. With regards to Work Packages, under which NoBo is required to issue Reports concerning the trackside construction assessment and provided that such Reports are capable of being issued no earlier than one (1) year after placement of the Order for the Work Package concerned, NoBo shall be entitled to initiate and the Principal and NoBo shall negotiate in good faith concerning the issuance by NoBo and acceptance by the Principal of the Reports with respect to part(s) of the Work Package. Where the Report is issued by NoBo and accepted by the Principal by signing the Transfer-Acceptance Deed with respect to part of the Work Package, NoBo shall be entitled to proportional part of Remuneration under the Work Package concerned (for example, for the number of kilometres assessed against the total number of assessment kilometres forming the particular Work Package).
- 8.15. Before signing the Transfer-Acceptance Deed, the Principal shall submit the deliverables to the respective Beneficiary in order to obtain from them an opinion on the quality of the respective Verification Services. The respective Beneficiary shall provide its opinion by sending it to the Principal within ten (10) calendar days from the calendar day of receipt of all of the respective documents. In case an opinion is not received, after lapse of the ten (10) calendar day period the Principal shall have the right to assume that the respective Beneficiary is satisfied with the quality of the particular Verification Services. To the extent possible the Principal shall treat favourably the opinion of the Beneficiary, however the Principal shall not be prevented to accept the relevant Verification Services if, in the best professional opinion of the Principal, the Verification Services are rendered according to the required quality. In such case the Principal shall notify the Beneficiaries **about the Principal's decision at the Principal's earliest convenience, but not later than ten (10) Business Days** after notifying NoBo about the acceptance of the specific documents.
- 8.16. Where the Principal has minor or non-significant objections, comments or recommendations regarding the produced deliverables (e.g., where the deliverables are in line with essential requirements of the Contract and Laws), the Principal may initiate the acceptance procedure as per Clause 8.15 of the Contract and sign the Transfer-Acceptance Deed **and indicate the Principal's recommendations and/or non-significant observations** to NoBo, in which case NoBo shall be required to update the deliverable and submit it to the Principal no later than within ten (10) Business Days after the Principal signs the Transfer-Acceptance Deed with indicated recommendations on the specific deliverable(s).

9. PRICES AND PAYMENT

- 9.1. The Contract Price for the Verification Services shall not exceed **EUR 2'595'125,03 (two million five hundred ninety-five thousand one hundred twenty-five euro and three cents)**, excluding VAT, such amount being payable in case of proper and full completion of all the Verification Services provided by the Verification Programme and subject to conditions set-forth in the Contract.

- 9.2. For clarity, it is confirmed that the Principal shall not be obliged to order all Verification Services prescribed under the Verification Programme (i.e., issue Orders in respect of all Work Packages) and to use the entire Contract Price, as NoBo shall only be paid for the Verification Services (completed Work Packages), which have been ordered by the Principal and provided by NoBo as per the terms and conditions of the Contract.
- 9.3. The Remuneration payable to NoBo for the specific Work Package, is provided in NoBo's **Tender** submitted by NoBo, hereby attached as Annex 6 which shall be split into separate instalments and be payable by the Principal to the NoBo according to the schedule set forth in Annex 5. For clarity, the amount payable to NoBo for the completed Work Package shall be the fixed amount provided in the Annex 6 of the Contract as submitted by NoBo.
- 9.4. Other amounts, such as price per kilometre and hourly rate, are provided in the NoBo's **Tender** for clarity and shall not affect any payments to NoBo, except where the Remuneration (regarding the Work Package concerned) is calculated based on the number of kilometres and the actual number of kilometres under the specific Work Package is different to the number of kilometres provided under the Work Package concerned by more than ten percent (10%), in which case the Remuneration under the Work Package concerned shall be recalculated by taking the actual number of kilometres. As a result, the Principal and NoBo shall update the Verification Programme at the earliest convenience pursuant to the Contract conditions.
- 9.5. The Remuneration for completion of the Work Packages shall be paid to NoBo on a quarterly (three-months) basis, the first quarter ending on the last day of the month in which the Transfer-Acceptance Deed was signed by the Principal and NoBo with regards to the first Work Package completed hereunder by NoBo.
- 9.6. The Remuneration payment pre-conditions are: the **Principal's accepted** Transfer-Acceptance Deed and the **Principal's accepted invoice** for the completed Work Package(s).
- 9.7. The Remuneration shall be paid to NoBo within sixty (60) calendar days upon expiration of a quarter within which NoBo and the Principal signed the Transfer-Acceptance Deed in respect of the particular Work Package and the Principal received and accepted the respective invoice from NoBo.
- 9.8. Where the respective part of the Verification Services (i.e., particular Report, ISV and/or '**EC**' certificate of verification) is not completed (i.e., the Report, ISV and/or '**EC**' certificate of verification not issued) due to the **Principal's fault or the Principal's unilateral decision, absent NoBo's fault** in termination of the Contract or provision of respective part of the Verification Services, NoBo shall be paid part of the Remuneration for the respective Verification Services concerned, in proportion to the work performed by NoBo for the purpose of completion of the respective Verification Services.
- 9.9. The invoices issued by NoBo shall, inter alia, specify the following administrative requisites:*

Regarding invoices concerning the Principal and the Beneficiary in Latvia	Regarding invoices concerning the Beneficiary in Estonia	Regarding invoices concerning the Beneficiary in Lithuania
Title: RB Rail AS	Title: RAIL BALTIC ESTONIA OÜ	Title: AB "LIETUVOS GELEŽINKELIŲ INFRASTRUKTŪRA"
Registration No 40103845025	Registration No 12734109	Registration No 305202934
Tax registration No LV40103845025	Tax registration No EE101954107	Tax registration No LT100012666211
Address: Krišjāņa Valdemāra iela 8-7, Rīga, LV-1010	Address: Endla 16, Tallinn, 10142, Estonia	Address: Mindaugo g. 12, LT-03225 Vilnius, Lithuania
Bank: Luminor Bank AS Latvijas filiāle	Bank: AS SEB Pank	Bank: Swedbank, AB
Account No: LV73NDEA0000084270995	Account No: EE491010220236366223	Account No: LT21 7300 0101 5917 5126
Code: NDEALV22	Code: EEUHEE2X	Code: 73000, SWIFT HABALT22
E-mail: NoBoInvoices@railbaltica.org	E-mail: Invoice shall be provided to the Beneficiary in Estonia via "e-arged" tool pursuant to the procedures set-forth in Clause 9.11.2 of the Contract.	E-mail: lginfra@litrail.lt Invoice shall be provided to the Beneficiary in Lithuania via "E.sąskaita" tool pursuant to the procedures set-forth in Clause 9.11.3 of the Contract.
Contract No	Contract No	Contract No
CEF Contract No INEA/CEF/TRAN/M[●]/[●]Activity No [●]	CEF Contract No INEA/CEF/TRAN/M[●]/[●]Activity No [●]	CEF Contract No INEA/CEF/TRAN/M[●]/[●]Activity No [●]
Payments quarter:	Payments quarter:	Payments quarter:

NoBo performance territory: the Republic of Latvia	NoBo performance territory: the Republic of Estonia	NoBo performance territory: the Republic of Lithuania
Verification Services:	Verification Services:	Verification Services:
Payment basis: regular quarterly payment / regular quarterly payment and partial payment as per Clause 8.14 of the Contract	Payment basis: regular quarterly payment / regular quarterly payment and partial payment as per Clause 8.14 of the Contract	Payment basis: regular quarterly payment / regular quarterly payment and partial payment as per Clause 8.14 of the Contract

* In order to avoid any doubt, it shall be noted that in case if the specific Work Package covers the Verification Services which shall be paid from more than one financing source, separate invoices shall be issued by NoBo with respect to the specific financing sources. To achieve this administrative task, the Principal and NoBo will cooperate based on cooperation principles set-forth in Clause 1.6 of the Contract.

- 9.10. Before issuance of the invoices pursuant to Clause 9.9 of the Contract NoBo shall send the invoices to the Principal electronically to the e-mail: NoBoInvoices@railbaltica.org. Upon receipt of the specific invoice the Principal shall verify its contents and submit it to the corresponding Beneficiary (where relevant) to carry out verification of the specific invoice.
- 9.11. Provided that the specific invoice is compliant with the Contract conditions and precisely reflects the amount of services completed by NoBo, the Principal shall:
- 9.11.1. Accept the invoice as regards the Verification Services to be provided concerning the Latvian part of the Project and related to the activities of the Principal and/or the Beneficiary in Latvia, as the case may be.
- 9.11.2. Accept the invoice as regards the Verification Services to be provided concerning the Estonian part of the Project and related to the activities of the Beneficiary in Estonia and request the NoBo to send the invoice to the Beneficiary in Estonia through e-invoices system (in Estonian language: "e-arved") as applicable in the Republic of Estonia.
- 9.11.3. Accept the invoice as regards the Verification Services to be provided concerning the Lithuanian part of the Project and related to the activities of the Beneficiary in Lithuania and request the NoBo to send the invoice to the Beneficiary in Lithuania through e-invoices system (in Lithuanian language: "E.sąskaita") as applicable in the Republic of Lithuania. Towards the Beneficiary in Lithuania payment deadline set-forth in Clause 9.7 of the Contract shall be triggered from the moment the final invoice is issued via "E. sąskaita" system. It shall be noted that payments for the invoice could be separated (e.g., VAT paid separately).
- 9.12. All payments to NoBo under the Contract shall be made by the Principal with regards to the Verification Services provided in the Republic of Latvia, by the Beneficiary in Lithuania with regards to the Verification Services provided in Lithuania, and by the Beneficiary in Estonia with regards to the Verification Services provided in Estonia. For the avoidance of doubt, the Beneficiary in Latvia shall make no payments to NoBo under the Contract with regards to the Verification Services provided in the Republic of Latvia.
- 9.13. All payments to NoBo under the Contract shall be carried out by transferring the payment to the bank account of NoBo indicated in the Contract and on the invoices.
- 9.14. The payment for Remuneration for the Inception Report shall be made in equal parts by each of: the Principal, the Beneficiary in Lithuania and the Beneficiary in Estonia. In this respect NoBo shall issue separate invoices for each payer.
- 9.15. The time of the payment shall be the date evident on the payment order of the Principal or the respective Beneficiary, as the case may be.
- 9.16. For avoidance of doubts, the mere fact of payment for the Verification Services (respective part thereof) shall not deprive the Principal of any of its rights under the Contract or Law to raise claims as regards the timelines and/or quality of the provided Verification Services.
- 9.17. Should the Principal and NoBo agree, to the extent permitted by Laws, regarding the provision of additional services, other than the Verification Services, the fees chargeable for such additional services shall not exceed (having regard of and by application of the rules of the Contract on indexation) those charged for equivalent Verification Services prescribed under the present Contract.
- 9.18. If the Principal or any of the Beneficiaries has a claim of contractual penalty, direct damages or other amounts against NoBo due to non-performance of the Contract, the Principal or the Beneficiary in Lithuania or the Beneficiary in Estonia (as applicable) shall have the right to deduct the relevant amount from the part of the amount payable by submitting the relevant reasoned statement of set-off (for avoidance of doubts, in case of the Beneficiary in Lithuania and the Beneficiary in Estonia, such statement shall be submitted to NoBo by the Principal

or by the Beneficiary through the Principal), i.e. the Principal or the Beneficiary in Lithuania, or the Beneficiary in Estonia, as the case may be, is entitled to set-off the claim of a contractual penalty or direct damages or another amount against the invoices payable to NoBo. The statement shall be submitted at the same time as the payment or within a reasonable time period after the execution of the payment, or if the amount owed by NoBo exceeds the amount of the payment, at the latest on the date the payment would have fallen due.

- 9.19. Unless otherwise agreed by the Principal and the respective Beneficiary and outlined to NoBo in the written form by the Principal, the set-off by, specifically, the Principal, the Beneficiary in Lithuania or the Beneficiary in Estonia, of a claim against NoBo is only permissible with regards to the claim of NoBo against, respectively, the Principal, the Beneficiary in respective state (for clarity, as an example, the Beneficiary in Estonia (acting through the Principal) is not entitled to set-off its claim against **NoBo for penalty, against NoBo's Remuneration claim for Verification Services** against the Principal or the Beneficiary in Lithuania).
- 9.20. NoBo shall notify and/or register in an appropriate legal manner and form with tax authorities and other such revenue services in all of the countries, where such notification/registration is required. NoBo shall provide the Principal with all the registration/tax residence or other such certificates, as may be required by the Principal and pursuant to Laws. The Principal is entitled to make any deductions from payments to NoBo hereunder in case of absence of such certificates and/or as required by Law.
- 9.21. NoBo shall notify and/or register in an appropriate legal manner and form with national commercial registration authorities and other such institutions in all of the countries, where such notification/registration is required. NoBo shall provide the Principal with all the registration or other documents, as may be required by the Principal and pursuant to Laws. The Principal is entitled to make any deductions from payments to NoBo hereunder in case of absence of such documents and/or as required by Law.

10. INDEXATION

- 10.1 The Remuneration for the respective Verification Services shall be adjusted under the following provisions:
- 10.1.1. The first indexation of the Remuneration under the Contract shall occur after the lapse of four (4) **years'** period after the Commencement Date;
- 10.1.2. Every subsequent indexation of the Remuneration shall occur on the fourth (4) anniversary closing of the previous indexation;
- 10.1.3. The indexation of the Remuneration shall be carried out based on the variation of the SPPI of the Euro area (Eurozone) (classification of economic activities: Legal, accounting and management consultancy activities), published by Eurostat (at https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sts_sepp_a&lang=en);
- 10.1.4. For the first adjustment of the Remuneration, the SPPI of the year preceding the Commencement Date shall be compared to the SPPI of the year preceding the indexation;
- 10.1.5. For subsequent indexations, the comparison shall be made between the SPPI selected for the previous adjustment of the Remuneration and the SPPI of the year preceding the next indexation in question;
- 10.1.6. The Remuneration shall be adjusted only with regards to the particular Verification Services (Reports, ISVs and/or **'EC' certificates of verification**) which shall be rendered by NoBo going forward after the indexation and concerning which the Order for such Verification Services is placed after the indexation. For the avoidance of doubt, the indexation shall never apply to the Verification Services which were rendered by NoBo before the indexation and/or which are being rendered by NoBo at the time of indexation;
- 10.1.7. Adjustment (increase or decrease) shall be capped at two percent (2%) per one indexation;
- 10.1.8. In case the respective values of the SPPI are not published, the Principal and NoBo shall agree to use other official statistical indices being equivalent to the former in respect of their content and purpose shall be applicable.
- 10.2. NoBo shall provide a written notice to the Principal with reasonable explanation and calculation, in compliance with Clause 10.1 of the Contract, of adjustment of the Remuneration for the Verification Services to be rendered by NoBo going forward.

- 10.3. **Unless the Principal receives and accepts NoBo's notice indicated in** Clause 10.2 of the Contract of the Contract the Remuneration shall not be adjusted pursuant to Clause 10.1 of the Contract for the specific period.
- 10.4. Indexation of the Remuneration in line with Clause 10.1 of the Contract can be illustrated as follows:
- The Commencement Date is 1 October 2021.
 - The indexation is initiated on 1 October 2025, namely, after the lapse of four (4) **years' period after the** Commencement Date as indicated in Clause 10.1.1 of the Contract.
 - The rate of change in the SPPI for the year 2024, compared to 2020, is five percent (5%).
 - The Order for the specific **'EC' certificate of verification** is issued on 1 March 2026.
 - The base fee for the named **'EC' certificate of verification is equal to EUR 100 000** (one hundred thousand *euro*).
 - Indexation shall be capped at two percent (2%) of the Remuneration.
 - **Accordingly, the fee for the named 'EC' certificate of verification would be equal to EUR 102 000** (one hundred two thousand *euro*).

11. INSURANCE

- 11.1. NoBo shall, at its own expense and no later than within the period indicated in Clause 4.1 of the Contract submit to the Principal **NoBo's** professional civil liability insurance policy which is compliant with the Contract conditions or certificate **with the insurer's confirmation regarding** full coverage of the policy towards the Contract conditions. The insurance shall cover **NoBo's** (in case of group of suppliers – each member) and its sub-**contractors'** Verification Services and additional services, as the case may be, under this Contract. In addition, the insurance **policy shall provide a condition that all NoBo's employees and sub-contractors** are insured.
- 11.2. The annual insurance amount of the professional civil liability insurance shall be no less than **EUR 2'595'125,03** (two million five hundred ninety-five thousand one hundred twenty-five euro and three cents). The insurance amount of the professional civil liability insurance for each insured event shall be no less than **EUR 519'025,01** (five hundred nineteen thousand twenty-five *euro* and one *cent*). The language of the professional civil liability insurance contract (insurance policy) shall be English or translation to English language shall be provided by NoBo to the Principal at no additional cost.
- 11.3. NoBo shall maintain the professional civil liability insurance contract valid throughout the tenure of the Contract and during the placement into service period until issuance of the Verification Services full performance statement by the Principal provided that limit is 31 December 2029. If the expiry date of the insurance contract falls on the date before the final completion of the Contract, NoBo shall present a renewed insurance policy to the Principal not later than thirty (30) calendar days before the expiry date of the previous policy. **NoBo's failure** to maintain the professional civil liability insurance contract valid and/or extend it (as the case may be) and provide it to the Principal shall be considered a material breach of the Contract and at the sole discretion of the Principal may result in:
- 11.3.1. Termination of the Contract with immediate effect, as set forth in Clause 16.8.3.1 of the Contract; or
 - 11.3.2. Temporary suspension of any Remuneration payments to NoBo.
- 11.4. The professional civil liability insurance contract (insurance policy) must provide for no less than twenty-four (24) **months'** extended reporting period as of the date of completion of all Verification Services by NoBo as confirmed by the Principal by issuance of the Verification Services full performance statement. The extended reporting period shall cover claims arising out of or in relation to an act or omission of NoBo or its sub-contractors and occurring during the policy period, provided that the claim is reported by the Principal within the extended reporting period. In each and every case of a renewed insurance policy, the coverage must be continuous and must be inclusive of all periods from the date of signing this Contract to the issuance of a renewed insurance policy.
- 11.5. The professional civil liability insurance contract (insurance policy) shall be taken out with an insurer, i.e. insurance company (re-insurance company) with a required minimum rating of BB+ (or equivalent) in accordance with Standard & Poor's rating, Fitch's rating or Moody's rating. The Principal has the right to request a replacement of the insurer in case the rating falls below the required minimum. The insurer shall be registered within the EU.
- 11.6. The insurance contract (insurance policy) shall refer to the direct beneficiaries as follows: the direct beneficiary for insurance events arising in the territory of the Republic of Estonia shall be the Beneficiary in Estonia. The direct beneficiary for insurance events arising in the territory of the Republic of Lithuania shall be the Beneficiary in Lithuania. The direct beneficiary for insurance events arising in the territory of the Republic of Latvia shall be the Principal and/or the Beneficiary in Latvia.

- 11.7. Professional civil liability insurance may not be subject to any unusual conditions limiting the insurance coverage as well as any reservations or exceptions. The scope of protection under professional civil liability insurance shall not exclude or limit liability for irregularities resulting from negligence for the consequences of defects, errors, non-compliances or deficiencies. Professional civil liability insurance shall, inter alia, cover (not exhaustive list):
- 11.7.1. Civil liability of NoBo and its sub-contractors against the Principal and the Beneficiaries and third parties for non-performance of the Verification Services, failure to perform the Verification Services properly (including omissions, errors, defects, non-compliances, deficiencies) and timely;
 - 11.7.2. Civil liability of NoBo and its sub-contractors against the Principal and the Beneficiaries and third parties for personal injury, death, and for loss or damage to any property entrusted or not;
 - 11.7.3. Expenses for setting of the place of insurance event;
 - 11.7.4. Machinery and equipment of the Project;
 - 11.7.5. Property of the Principal and the Beneficiaries and third parties located at sites of the Project;
 - 11.7.6. Loss of documents.

12. PERFORMANCE BOND

- 12.1. NoBo shall, at its own expense and no later than within the period indicated in Clause 4.1 of the Contract submit to the Principal a performance (payment) guarantee statement (hereinafter referred to as a - „**Performance Bond**“) for the amount equal to 10% of the Contract Price, i.e. for the amount of EUR **259'512,50** (two hundred fifty-nine thousand five hundred twelve *euro* and fifty *cents*). The Performance Bond shall be unconditional, irrevocable, transferable and payable upon the **Principal's** first demand.
- 12.2. Performance Bond shall be issued respectively by a bank, insurance company (re-insurance company) or financial institution which is entitled to issue the performance (payment) guarantees in compliance with Performance Bond form attached to this Contract as Annex 3. In the Performance Bond, the Principal shall be specified as the direct beneficiary. Under the Performance Bond, the Principal shall be entitled to satisfy any and all claims, costs, expenditure and expenses, which occur to the Principal and/or to the Beneficiaries due to the full or partial **non-fulfilment of NoBo's obligations under this Contract**.
- 12.3. The Performance Bond must be valid throughout the tenure (period) of the Contract and during the placement into service period until issuance of the Verification Services full performance statement by the Principal, provided that limit is 31 December 2029. The Performance Bond shall provide twelve (12) months extended notification period as of the date of completion of all Verification Services by NoBo as confirmed by the Principal by issuance of the Verification Services full performance statement.
- 12.4. Whereas part of NoBo's Verification Services includes support to the Principal with the placement into service (i.e., obtaining respective permits from regulatory authorities in the Republic of Latvia, the Republic of Lithuania and/or the Republic of Estonia) **of the subsystems, in respect of which the 'EC' certificates of verification are being issued**, the Performance Bond shall be valid up to the time that the placement into service of all the subsystems, **in respect of which 'EC' certificates of verification** are to be issued by NoBo, takes place.
- 12.5. If the expiry date of the Performance Bond falls on the date before the date of completion of all Verification Services by NoBo, NoBo shall present a renewed Performance Bond to the Principal not later than forty-five (45) Business Days before the expiry date of the issued **Performance Bond. NoBo's failure to maintain the Performance Bond** valid and/or extend it (as the case may be) shall be considered a material breach of the Contract and may, at the sole discretion of the Principal, result in:
- 12.5.1. Termination of the Contract with immediate effect;
 - 12.5.2. Temporary suspension of any Remuneration payments to NoBo.
- 12.6. The Performance Bond shall be taken out with a guarantor with a required minimum rating of BB+ (or equivalent) in accordance with Standard & Poor's rating, Fitch's rating or Moody's rating. NoBo shall be obliged to continuously monitor the rating of the guarantor which has issued the Performance Bond and shall be obliged to immediately, no later than within ten (10) Business Days, inform the Principal in writing if the rating falls below the required minimum rating. The Principal has the right to request a replacement of the guarantor in case the rating falls below the required minimum. The guarantor shall be registered within the EU.
- 12.7. The language of the Performance Bond shall be English.
- 12.8. The Party liable for the payment of any charges under the Performance Bond shall be NoBo.
- 12.9. Any dispute, controversy or claim, arising out of or relating to the Performance Bond shall be submitted, after amicable negotiations of thirty (30) calendar days, but without the adjudication procedure under the Annex 4, to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under

the Rules of Arbitration of the International Chamber of Commerce. Without prejudice to the procedural rules laid down in the foregoing sentence, the dispute shall be settled in accordance with the substantive law of the Republic of Latvia (i.e., the subject and merits of the dispute shall be governed by the substantive law of the Republic of Latvia). The arbitration shall be concluded in the English language. The place of arbitration shall be Stockholm, Sweden.

- 12.10. A demand or other document with respect to recourse on the Performance Bond shall be presented as a:
- 12.10.1. Paper form (written) demand signed by all Management Board Members of the Principal which shall be sent by courier to the legal address of the guarantor with a copy to the legal address of NoBo; or
 - 12.10.2. Electronical form (scanned and signed **“.PDF”** file, whereas the file may be in a asice or similar container) to the e-mail of the guarantor as indicated in the Performance Bond by using safe electronic signature with a time stamp; shall be signed by all Management Board Members of the Principal; or
 - 12.10.3. Authenticated SWIFT message using SWIFT submission system (not necessarily, but can be combined **with scanned and signed “.PDF” file**, whereas the file may be in a asice or similar container, and secured by using safe electronic signature with a time stamp; shall be signed by all Management Board Members of the Principal).

13. REPRESENTATIONS AND WARRANTIES

13.1. NoBo represents and warrants to the Principal as follows:

- 13.1.1. **Authorisations.** NoBo has full right, power and authority required to execute this Contract and perform the obligations indicated herein during the tenure of the Contract and all such decisions and consents are valid and enforceable. Thus, this Contract constitutes valid and binding obligation of NoBo, fully enforceable in accordance with its terms.
- 13.1.2. **Non-conflict.** Neither the execution of this Contract, nor the compliance by NoBo with its terms and provisions, will conflict with, or result in a breach or violation of any of the terms, conditions and provisions of (i) any permit, consent, decision, judgement, order, decree or ruling of any person, authority, organisation or dispute resolution body, to which NoBo is subject; (ii) any transaction or commitment to which NoBo is a party; or (iii) any Laws. NoBo, its top-level management and the personnel responsible for carrying out the Verification Services are not involved as the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the subsystems or the constituent parts thereof, or the authorised representative of any of those parties. NoBo, its top-level management and the personnel responsible for the Verification Services are not engaged in any activity that may conflict with their independence of judgement or integrity in relation to Verification Services.
- 13.1.3. **No proceedings.** There is no claim, action, suit, proceeding, arbitration, investigation or hearing, pending or threatened, by or before any authority or dispute resolution body against NoBo that might adversely affect the ability of NoBo to perform its obligations under this Contract.
- 13.1.4. **Organisation.** NoBo is duly incorporated under applicable Laws with full corporate power and authority to carry out the business and, in particular, provide the Verification Services. NoBo is not subject to bankruptcy, restructuring, insolvency, reorganisation, spin-off or liquidation under applicable Laws and no such bankruptcy, restructuring, insolvency, reorganisation, spin-off or liquidation is pending or threatened against NoBo.
- 13.1.5. **Licences.** NoBo has valid licences, permits, authorisations, accreditations, notifications and complies with other requirements of similar nature, which are necessary for the provision of the Verification Services under the Contract and no such licences, permits, authorisations, accreditations, notifications, etc. are suspended or revoked and there are no existing circumstances that could lead to revocation or suspension of the same.
- 13.1.6. **Personnel and equipment.** NoBo has at its disposal: (a) the necessary personnel with technical knowledge and sufficient and appropriate experience to perform the Verification Services; (b) the relevant descriptions of procedures in accordance with which Verification Services are to be carried out, ensuring the transparency and the ability to apply those procedures; (c) the proper procedures for the performance of activities of NoBo; (d) NoBo has the means necessary to perform in an appropriate manner the technical and administrative tasks connected with the Verification Services and has access to all necessary equipment or facilities.
- 13.1.7. **Full Disclosure.** There are no facts or circumstances or untrue information about NoBo, which was not disclosed to the Principal and which could have adverse consequences to the financial status or the businesses of NoBo or provision of the Verification Services hereunder.

- 13.1.8. **All enquiries made.** NoBo has made all enquiries concerning the Project and the Verification Services to be provided and obtained full information required for risk assessment and well-informed decision of NoBo to enter into and perform under the Contract in line with the terms and conditions hereof.
- 13.1.9. NoBo has made his own enquiries and is fully aware of all Laws applicable within the Republic of Latvia, the Republic of Lithuania and the Republic of Estonia with regards to carrying out activities such as those prescribed under the Contract, and, in particular, concerning corporate registration, licencing, registration for tax purposes and taxation applied on NoBo in relation to the present Contract.
- 13.2. The Principal and Beneficiaries represent and warrant to NoBo as follows:
- 13.2.1. **Authorisations.** The Principal and Beneficiaries have full right, power and authority required to execute this Contract and perform the obligations indicated herein and all such decisions and consents are valid and enforceable. This Contract constitutes valid and binding obligation of the Principal and Beneficiaries, enforceable in accordance with its terms.
- 13.2.2. **Organisation.** The Principal and Beneficiaries are duly incorporated under applicable laws with full corporate power and authority to carry out activities prescribed under the Contract. The Principal and Beneficiaries are not subject to bankruptcy under the Laws.
- 13.2.3. **Licences.** The Principal and Beneficiaries have valid licences, permits, authorisations, accreditations, notifications and complies with other requirements of similar nature, which are necessary for carrying out activities prescribed under the Contract.
- 13.3. The Parties undertake that the representations and warranties provided hereby shall remain true and correct throughout the term of validity of the Contract.

14. LIABILITY OF THE PARTIES

- 14.1. The Parties shall be liable for the direct damages caused to the other Party due to breach of the Contract or incorrect, false or misleading representation or warranty. Neither Party shall be liable for the loss of revenue, loss of profit or any incidental loss incurred by the other Party.
- 14.2. Any penalty for each individual case of a breach of the Contract may not exceed ten percent (10%) of the Contract Price.
- 14.3. The Parties hereby agree that prior to imposing each penalty under this Contract, the affected Party shall issue a written notice of each breach to the defaulting Party by submitting such notice to the Principal by NoBo or to NoBo through the Principal and shall give each other a term of fourteen (14) calendar days to rectify any alleged breach of the Contract.
- 14.4. After receiving a written notice of the breach, the defaulting Party shall notify the Principal or NoBo (as the case may be) if it rectified the breach of the Contract.
- 14.5. If the defaulting Party has duly given a notification regarding rectification of the breach, the breach shall be deemed rectified and the affected Party shall be precluded from claiming any contractual penalty with respect to such rectified breach unless the affected Party (via the Principal) has given, within five (5) Business Days of receipt of such a notification, a written notice of objection describing in reasonable detail the reason why the affected Party believes the breach was not rectified. If the breach of the Contract is not rectified within the term for rectification, as specified in the notice of the breach, and/or the affected Party does not receive notification of the defaulting Party regarding rectification of the breach or if the affected Party gives a written notice of objection, the affected Party may impose a contractual penalty as follows:
- 14.5.1. If NoBo delays the deadline established in the Contract for submitting the Inception Report to the Principal or is late to make changes to the Inception Report based on the Principal's questions/observations/requests and/or as needed, the Principal shall be entitled to request NoBo to pay a penalty in the amount of EUR 1 000 (one thousand *euro*) per each calendar day of delay, however, not exceeding ten percent (10%) of the Inception Report value.
- 14.5.2. If NoBo delays the deadline established by the Contract for submitting Report, 'EC' certificate of verification and/or ISV to the Principal, the Principal shall be entitled to request a penalty in the amount of zero point four (0,4%) of the Remuneration payable to NoBo for the respective Report, ISV and/or 'EC' certificate of verification per each calendar day of delay, however, not exceeding ten percent (10%)

of the of the Remuneration payable to NoBo for the respective Report, ISV and/or 'EC' certificate of verification.

- 14.5.3. If NoBo or its experts, or the involved sub-contractors, or their staff violate the confidentiality requirements established under the Contract, the Principal shall be entitled to request and NoBo shall be obliged to pay to the Principal a penalty in the amount of EUR 20 000 (twenty thousand *euro*) for each individual case of such breach, however, not exceeding five percent (5%) of the Contract Price.
- 14.5.4. If NoBo is in breach of the Contract, that is capable of being cured and that is not specified above under Clauses 14.5.1, 14.5.2 or 14.5.3 of the Contract, the Principal shall be entitled to request, and NoBo shall be obliged to pay, a penalty in the amount of EUR 1 000 (one thousand *euro*) per each calendar day that such breach persists, however, not exceeding one percent (1%) of the Contract Price.
- 14.5.5. If the Principal and/or the Beneficiary delays payment for the provided Verification Services, NoBo shall be entitled to request the Principal and/or a relevant Beneficiary (with a notification which shall be sent to the Principal) to pay a penalty in the amount of zero point five percent (0,5%) of the delayed amount per each Business Day of delay, however not exceeding ten percent (10%) of the value of the particular Verification Services.
- 14.6. The penalties, foreseen in this Contract in fixed amounts, shall be indexed every four (4) years after the Commencement Date on the basis of the SPPI of the Euro area (Eurozone) (classification of economic activities: Legal, accounting and management consultancy activities), published by Eurostat (at https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sts_sepp_a&lang=en), but not more than by two percent (2%) per each indexation based on the principles incorporated in Section 10 of the Contract.
- 14.7. The payment of the penalty shall not release the Parties from the further performance of the Contract and shall not release from the obligation to compensate direct damages not covered by the amount of a penalty. It shall be understood that non-performance of payment obligations as described in Clause 14.5.5 of the Contract constitutes material breach of the Contract.
- 14.8. NoBo shall be fully liable for the activities, inactivity, infringement or negligence of its sub-contractors within the framework of this Contract, and shall keep the Principal (and the Beneficiaries in coordination with the Principal) indemnified from and against all costs which the Principal incurs or suffers as a result of any action, claim or proceedings by its sub-contractors.
- 14.9. In relation to the Project and under the Contract, the Principal and the Beneficiaries shall be liable against NoBo individually and severally (not jointly) on the basis of territorial provision of the Verification Services. For the avoidance of doubt, liability of the Beneficiary in Estonia, the Principal, and the Beneficiary in Lithuania shall be limited and shall be distributed as follows:
 - 14.9.1. The Beneficiary in Estonia shall be individually, severally and directly liable for events, actions and/or omissions arising in the territory of the Republic of Estonia;
 - 14.9.2. The Principal shall be individually, severally and directly liable for events, actions and/or omissions arising in the territory of the Republic of Latvia;
 - 14.9.3. The Beneficiary in Lithuania shall be individually, severally and directly liable for events, actions and/or omissions arising in the territory of the Republic of Lithuania.
- 14.10. Notwithstanding anything to the contrary in this Contract, the total civil liability of each Party shall be proportionally limited to the Contract Price.
- 14.11. Neither Party shall be liable for delays, impediments or preventions caused by the third parties.

15. VARIATIONS

- 15.1. Variations to the Contract and the Verification Services whether or not resulting in the Contract amendments (hereinafter referred to as a – "**Variations**") can be initiated by the Principal or by NoBo but shall be agreed with the Principal in all cases pursuant to this Section 15 of the Contract.
- 15.2. Notwithstanding anything to the contrary in this Contract any Variations can be carried out to the extent permitted by Public Procurement Law of the Republic of Latvia.

- 15.3. Upon its own initiative or at the suggestion of NoBo, a Variation to the Verification services may be initiated by the Principal by issue of a Variation Notice at any time prior to completion of the Verification Services and it may be issued in respect of any:
- 15.3.1. Implementation of any corrigenda, replacement, omission, inclusion, or amendments to the applicable TSI(s) based on objective reasons required to implement the Project with respect to the Verification Services timely and efficiently;
 - 15.3.2. Implementation of amendments to the Inception Report (or its respective part) or the Verification Programme **(or its respective part) based on the Principal's initiative** or approval so as to increase, decrease, replace or amend **NoBo's assessment objects** which shall be verified under the Verification Services based on objective reasons required to implement the Project with respect to the Verification Services timely and efficiently;
 - 15.3.3. Implementation of amendments to Annex 5 **based on the Principal's initiative in order to:**
 - 15.3.3.1. amend technical solutions affecting the Verification Services during design, construction and testing stages of the Project implementation, or
 - 15.3.3.2. introduce, reduce or to substitute any mandatory design, construction or testing criteria (guidelines (i.e. Design Guidelines), plans (i.e. **Project's operational plan**), etc.) during design, construction and testing stages of the Project implementation, or
 - 15.3.3.3. comply with any requirements (mandatory or optional) of the NSAs or any other state or municipal authorities or institutions which are entitled to issue decrees, instructions or recommendations with respect to the Verification Service provision during design, construction and testing stages of the Project implementation;

whether or not resulting in the amendments of the Inception Report (or its respective part) or the Verification Programme (or its respective part);
 - 15.3.4. Supply of additional Verification Services not previously foreseen under the Contract, in particular with **respect to the Principal's** requirements to issue additional ISVs, which have not been prescribed under the Inception Report and/or the Verification Programme, in order to facilitate issuance of the 'EC' certificates of verification;
 - 15.3.5. Change of sequence of performance of the Verification Services as initiated or approved by the Principal based on objective reasons required to implement the Project with respect to the Verification Services timely and efficiently whether or not resulting in the amendments of the Inception Report (or its respective part) or the Verification Programme (or its respective part);
 - 15.3.6. Implementation of Verification Services performance risk mitigation measures, in addition to the measures proposed by NoBo as per Annex 6 of the Contract, as initiated or approved by the Principal based on objective reasons required to implement the Project with respect to the Verification Services timely and efficiently whether or not resulting in the amendments of the Inception Report (or its respective part) or the Verification Programme (or its respective part);
 - 15.3.7. Implementation of the Contract condition or Laws requirements requiring or permitting issuance of the Variations;
 - 15.3.8. Implementation of any amendments to the Contract as initiated or approved by the Principal during the Verification Services provision within design, construction and testing stages of the Project implementation which are necessary due to such reasons which the Principal could not foresee in advance, including, but not limited to occasions set-forth in Clauses 15.3.1, 15.3.2, 15.3.3, 15.3.5 and 15.3.6 of the Contract;
 - 15.3.9. Extension of the deadline indicated in Clause 16.9.4 of the Contract for ordering part of the Verification Services (**'EC' certificate of verification or ISV**).
- 15.4. In case of supply of additional Verification Services not previously foreseen under the Contract (Clause 15.3.4 of the Contract), the Contract Price may not increase or decrease by more than fifty percent (50%).
- 15.5. In case of implementation of the Variations due to reasons which the Principal could not foresee in advance (Clauses 15.3.1, 15.3.2, 15.3.3, 15.3.5 and 15.3.6 of the Contract) the Contract Price may not increase or decrease by more than fifty percent (50%).
- 15.6. The increase or decrease of the Contract Price regarding all successive Variations may not exceed fifty percent (50%) of the Contract Price with respect to each case referred to in Clause 15 of the Contract.
- 15.7. By issuance of a Variation notice the Principal is entitled to request NoBo to submit to the Principal specific and detailed proposal in respect of a proposed Variation under the Contract during all Contract implementation phases.
- 15.8. NoBo shall comply with **the Principal's request as per Clause 15.7** of the Contract by submitting to the Principal specific and detailed proposal towards the Variations in question within fifteen (15) Business Days and provide time and cost estimate of the Variation.

- 15.9. **In case of the Variations proposed based on NoBo's initiative, NoBo** shall proactively and timely submit to the Principal specific and detailed proposal towards the Variations in question and provide time and cost estimate of the Variation.
- 15.10. **Upon receipt of NoBo's proposal in line with Clauses 15.8 and 15.9** of the Contract, the Principal at its sole discretion shall either issue a Variations approval notice or Variations rejection notice.
- 15.11. In case of issuance of the Variations approval notice the Principal and NoBo shall sign the relevant and amended Contract documents at the earliest convenience possible not to delay provision of the Verification Services and Contract implementation.
- 15.12. In case of issuance of the Variations rejection notice NoBo shall comply with further instructions set-forth in this notice and, if required by the Principal, shall update the specific proposal regarding the Variations in question, and submit new notice to the Principal within fifteen (15) Business Days.
- 15.13. Without prejudice to any other Contract requirements, the cost of any Variation shall be agreed by NoBo and the Principal in a good faith and the Principal is entitled to reject any Variations proposal if it cannot be carried out due to objective restrictions applicable to the Principal as a contracting authority. Pursuant to such agreement the Principal shall issue an Order to NoBo to commence work on the Variation.
- 15.14. The value of any Variation for any reason shall be determined in accordance with calculations indicated in Technical Specification and **NoBo's Tender** (unit costs, hourly rates, price for kilometre, etc.) or, where these calculations are not applicable for any reason (as determined by the Principal), value of the Variation in question shall be agreed by NoBo and the Principal based on prices usually applicable in the relevant assessment industry. In any occasion these values shall be inclusive of the costs for works and labour, travel and accommodation, per-diem, machines, tools and transport, work organisation, taxes (excluding VAT), insurance costs, costs related to drafting all relevant documents and their translations, inspection, testing, receipt of all relevant approvals and permits, including products, materials and equipment needed to properly perform the Verification Services.
- 15.15. Remuneration of the Work Package can be changed only if due to the specific Variation work amount of this Work Package increases more than for ten percent (10%).

16. SUSPENSION OF THE VERIFICATION SERVICES AND CONTRACT TERMINATION

- 16.1. Upon receipt of a relevant notice of the Beneficiary or upon its own initiative the Principal may suspend all or part of the Verification Services (to the extent determined by the Principal) at its sole discretion and for any reason by giving a written notice to NoBo with immediate effect.
- 16.2. The notice as per Clause 16.1 of the Contract shall be issued to NoBo by the Principal and shall contain anticipated duration and the scope of suspension (specific TSI, design or construction stage, specific object or structure and other information as indicated by the Principal and based on the detailization level decided by the Principal) of performance of this Contract.
- 16.3. If the Verification Services are being suspended in part, the notice as per Clause 16.2 of the Contract shall specify to which deliverables pursuant to the Verification Programme in Annex 7 the suspension applies. Partial suspension shall not affect provision of the Verification Services where the Verification Services are not suspended.
- 16.4. NoBo may suspend all or part of the Verification Services when NoBo has not received payment of an invoice or a part of invoice, as the case may be, by the due date for payment of such invoice and the Principal has not challenged the said invoice stating the reasons to NoBo, by giving forty-five (45) calendar days' **notice to the Principal**.
- 16.5. Where the Verification Services are suspended, NoBo shall resume the Verification Services or part thereof, as the case may be, as soon as reasonably practicable **based on the Principal's sole decision to revoke suspension or** after the expiry of the suspension period indicated by the Principal, whichever occurs earlier.
- 16.6. During the period of suspension, NoBo shall not perform **the** Verification Services or part thereof as the case may be, but shall ensure, so far as is reasonably practicable, the security, maintenance and custody of Verification Services or relevant property used by NoBo so as to prevent spoilage or loss.
- 16.7. NoBo shall take reasonable efforts and measures to mitigate the effects of the suspension of the Verification Services or part thereof. If NoBo continues performance of the suspended Verification Services on or after the

effective date of the suspension of the Contract or part thereof, this shall be at NoBo's own risk and expense. NoBo shall be paid for the Verification Services performed in accordance with the Contract up to the date of the suspension of the Contract. NoBo shall not be paid for the suspended Verification Services performed on or after the effective date of the suspension of the Contract or part thereof.

16.8. Termination by the Principal

- 16.8.1. If NoBo is in breach of the Contract (including incorrect, false or misleading representation or warranty), the Principal may give a notice to NoBo outlining the breach and the remedy required under the Contract. If NoBo has not proceeded to remedy the breach within thirty (30) calendar days after the issue of the notice, then the Principal may, upon giving fifteen (15) calendar days' Notice to NoBo, terminate the Contract unilaterally, fully or partly, without resorting to the adjudication and arbitration, without incurring any negative consequences (including, without limitation, sanctions and other claims).
- 16.8.2. Notwithstanding anything mentioned in the Contract, the Principal may, upon serving NoBo fifteen (15) calendar **days' written** notice, terminate the Contract in full or in part unilaterally without resorting to the adjudication and arbitration, without incurring any negative consequences for itself and the Beneficiaries (including, without limitation, sanctions and other claims) in the following cases, existence of which shall be judged at the sole discretion of the Principal:
- 16.8.2.1. where the Principal and/or Beneficiary has no financing available for further financing of the Verification Services, including, without limitation, where CEF co-financing for further financing of the Verification Services (entirely or partly) is not available (including cases when CEF co-financing is insufficient in order to implement the Contract fully or partly);
 - 16.8.2.2. where Force Majeure event has led to a suspension of the Verification Services for more than one (1) year;
 - 16.8.2.3. if international or national sanctions, or substantial sanctions by a Member State of the European Union or the North Atlantic Treaty Organisation affecting the financial and capital market interests have been imposed on NoBo;
 - 16.8.2.4. in other instances, at the sole discretion of the Principal on the basis of objective reasons in relation to the implementation of the Project within set objectives and pursuant to global plans. The Principal shall exercise this right honestly, reasonably and in good faith.
- 16.8.3. Notwithstanding anything to the contrary mentioned in the Contract, the Principal may, upon serving NoBo a written notice, terminate the Contract unilaterally, fully or partly, without resorting to the adjudication and arbitration, without incurring any negative consequences (including, without limitation, sanctions and other claims) with immediate effect in the following cases, existence of which shall be judged at the sole discretion of the Principal:
- 16.8.3.1. where the conditions stipulated in Clause 4.1, or Clause 11.3, or Clause 12.3 or 12.5 of the Contract are not fulfilled by NoBo;
 - 16.8.3.2. **where as a result of NoBo's** non-performance the applicable penalty amount reaches ten percent (10%) of the Contract Price;
 - 16.8.3.3. **where as a result of NoBo's non-**performance the Principal issues a recourse on the Performance Bond in order to claim full or partial amount guaranteed under the Performance Bond;
 - 16.8.3.4. where NoBo loses any licence, permit, authorisation, accreditation, notification, which is/are necessary for the provision of the Verification Services under the Contract, becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against it, compounds with its creditors, or carries on business under a receiver, trustee or manager for the benefit of its creditors, or if any act is done or event occurs which (under applicable laws) has a similar effect to any of these acts or events, in which case NoBo will be considered in breach for the purposes of the Contract;
 - 16.8.3.5. where NoBo is in breach in substance of mandatory obligations set-forth in Sections 22, 23, 24, 26 and Section 1 of Annex 1 of the Contract;
 - 16.8.3.6. where NoBo or its experts, or the involved sub-contractors, or their staff violated the confidentiality requirements established under the Contract.

- 16.8.4. The Principal's **written notice of termination must explain, in reasonable detail, the reason for termination of the Contract.**
- 16.9. **Termination by NoBo**
- 16.9.1. If the Principal and/or any of the Beneficiary is in material breach of the Contract and NoBo refers such breach to the Principal and/or the Beneficiaries as a material breach, NoBo may give a notice to the Principal outlining the breach (with a precise indication to the Contract clause) and the remedy required under the Contract. If the Principal has not proceeded to remedy the breach (or the Beneficiary through the Principal) within thirty (30) Business Days after the issue of the notice, then NoBo may, upon giving fifteen (15) Business Days' Notice to the Principal, terminate the Contract unilaterally without resorting to the adjudication, arbitration, without incurring any negative consequences (including, without limitation, sanctions and other claims).
- 16.9.2. If the Principal and/or the Beneficiary becomes bankrupt or insolvent, or if any act is done or event occurs which (under the Law) has a similar effect to any of these acts or events, the Principal and/or the Beneficiary will be considered in a material breach for the purposes of the Contract and NoBo shall be entitled to terminate the respective part of the Contract attributable to defaulting entity upon serving an appropriate notice to the Principal within fifteen (15) Business Days' upon occurrence of the specific event.
- 16.9.3. Where the Verification Services (part thereof) have been suspended under Clause 16.1 of the Contract for more than, in aggregate, seven hundred fifty (750) calendar days, NoBo may terminate the part of the Contract, which had been suspended upon giving thirty (30) Business Days' **notice to the Principal**. In case the Verification Services have been suspended in respect of multiple Orders, the time period above shall be calculated from the date of the first suspension.
- 16.9.4. Where part of the Verification Services (**'EC' certificate of verification or ISV**) **have not been ordered by the Principal** until 31 December 2022, NoBo is entitled to terminate the Contract with regards to those particular Verification Services unilaterally without resorting to the adjudication and/or arbitration, without incurring any negative consequences for itself (including, without limitation, sanctions and other claims). The deadline of 31 December 2022 prescribed herein may be prolonged up to three (3) times each time for a period of up to twenty-four (24) months by the Principal unilaterally, by notifying thereof NoBo in writing at least six (6) months prior to the expiry of the initial or extended deadline.
- 16.9.5. **NoBo's written notice of termination must explain, in reasonable detail, the reason for termination of the Contract.**
- 16.10. **Termination upon mutual agreement**
- 16.10.1. The Contract may be terminated upon mutual agreement of all of the Parties in writing at any time. In such a case, the Parties shall agree on the consequences of the termination of the Contract.
- 16.11. **Effects of Termination**
- 16.11.1. Termination of the Contract shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.
- 16.11.2. NoBo shall be paid for the Verification Services performed in accordance with the Contract up to the date of the termination of the Contract.
- 16.11.3. Regardless of the basis of termination of the Contract, NoBo must deliver, and the Principal shall take over from NoBo, all documents, information, calculations and other deliverables, whether in electronic format or otherwise, pertaining to the Verification Services performed up to the date of termination of the Contract. All documents in electronic format shall be editable, save for documents with signatures. Delivery of documents, calculations and other deliverables shall take place on the date of termination of the Contract and shall be confirmed by signing a respective statement of delivery and acceptance wherein NoBo shall be obliged to confirm that it has duly delivered all the documents, calculations and other deliverables related to the Verification Services and has not retained anything.
- 16.11.4. If the Contract is terminated in accordance with Clause 16.8.1, 16.8.3, 16.9.1, 16.9.2 of the Contract, the terminating Party shall, without prejudice to any other rights the Party may have under the Contract, be entitled to:
- 16.11.4.1. claim for compensation of direct damages in line with provisions of Clause 14.1 and 14.10 of the Contract;

- 16.11.4.2. withhold payments due to the other Party until such time that the amount of direct damages has been assessed and the deliverables have been submitted to the Principal in line with Clause 16.11.3 of the Contract. A Party will act expeditiously and without delay in establishing the direct damages incurred.

17. AUTHORIZED REPRESENTATIVES, COMMUNICATION AND MINUTES OF MEETINGS

- 17.1. The authorised representative by the Principal for Contract fulfilment issues is as indicated in Clause 17.3 of the Contract. The authorised representative of the Principal, without going beyond the scope of Contract, is entitled to settle all on-going operational issues related to Contract fulfilment in all three (3) Baltic States, basically, to carry out full Contract administration cycle with the authorization, in particular:

- 17.1.1. to organise and control the course of Contract fulfilment, including, but not limited to all communication between the Parties and between the Principal and NoBo;
- 17.1.2. to request information and documents from NoBo;
- 17.1.3. to provide information and documents to NoBo;
- 17.1.4. to order Verification Services;
- 17.1.5. to ensure delivery/acceptance of the documentation related to the Contract (Transfer-Acceptance Deeds, etc.);
- 17.1.6. to issue instructions on the performance of the Contract and provision of Verification Services;
- 17.1.7. to send claims on the performance of Verification Services;
- 17.1.8. to organize any meetings between the Parties and/or the Beneficiaries;
- 17.1.9. to participate in any meetings regarding the implementation of the Contract;
- 17.1.10. to undertake other actions related to proper fulfilment of contractual obligations;
- 17.1.11. to prepare, sign, send and receive all the necessary documents and information with respect to the Verification Services and the Contract implementation.

This person is not authorised to undertake amendments or supplements to the Contract, including changes to the Contract Price and/or Verification Services performance deadlines, also to waive the contractual rights of the Principal and/or the Beneficiaries or to carry out Variations.

- 17.2. The authorised representative by NoBo for Contract fulfilment issues is as indicated in Clause 17.3 of the Contract. The authorised representative of NoBo is entitled to settle all on-going operational issues related to Contract fulfilment, basically, to carry out full Contract administration cycle with the authorization to go beyond the scope of the Contract in all three (3) Baltic States, in particular:

- 17.2.1. to organise and control the course of Contract fulfilment, including, but not limited to communication between the Principal and NoBo;
- 17.2.2. to request information and documents from the Principal;
- 17.2.3. to provide information and documents to the Principal;
- 17.2.4. to ensure delivery/acceptance of the deliverables which shall be produced under the Contract;
- 17.2.5. to sign the documentation related to the Contract (Transfer-Acceptance Deeds, Reports etc.);
- 17.2.6. to sign any Variations notices and amended Contract documents;
- 17.2.7. to participate in any meetings regarding the implementation of the Contract;
- 17.2.8. to undertake other actions related to proper fulfilment of contractual obligations;
- 17.2.9. to prepare, sign, send and receive all the necessary documents and information with respect to the Verification Services and the Contract implementation.

- 17.3. NoBo and the Principal shall carry out all communication activities using the following details:

	the Principal's Representative	NoBo's Representative
Name, surname, Title Entity	Uģis Sabulis Technical Project Manager RB Rail AS Phone: [CONFIDENTIAL]	Sergio Furlan Project Manager Certifer SA Phone: [CONFIDENTIAL]
Address	Krišjāņa Valdemāra iela 8-7 , LV-1010 Riga, Latvia	18 rue Membrée, 59300 VALENCIENNES, France
Email	ugis.sabulis@railbaltica.org	sergio.furlan@certifer.eu

- 17.4. The Parties shall not later than within five (5) calendar days inform the other Party in writing concerning the change of the contact and other technical details of the Party (i.e. representative, address, new details of bank accounts, registration numbers and (or) other data that may have effect on the proper implementation of the Contract). In case of failure to inform in the time specified, any payments, notifications, meetings' requests and confirmations and other correspondence made to such Party to the contact information specified in the Contract shall be considered valid and properly served. To avoid any doubt, all Contract administration activities shall be carried out by the Principal and NoBo, and in this respect all notifications to NoBo shall be sent via the Principal.

- 17.5. NoBo shall prepare and send the draft minutes of all organised meetings (including conference calls, web-meetings, etc.) to the Principal for approval not later than within two (2) Business Days after the meeting.
- 17.6. The Principal shall review the draft minutes of the meeting and within two (2) Business Days after the receipt of the draft minutes shall send the approval or the instructions on necessity to perform changes in the minutes.
- 17.7. NoBo shall perform corrections in the draft minutes and shall send them for re-approval to the Principal not later than on the next Business Day from the receipt of the Principal's **instructions on the necessity to perform** corrections in the minutes.
- 17.8. NoBo shall sign the approved draft minutes and shall submit or send them to the Principal within five (5) Business Days after the approval day of the minutes.

18. LANGUAGES

- 18.1. All operational communication relating to performance of the Contract shall be in English. The Principal is entitled to request NoBo to provide translation of documents (minutes of the meeting, Inception Report, etc.) to Latvian, Lithuanian and/or Estonian language as required by the Laws and/or the Principal at no further cost to the Principal and/or the Beneficiaries.
- 18.2. **'EC' certificate of verification (ISV, as the case may be) including the accompanying documents (technical file, etc.)**, shall be issued in the English language. On request of the Principal, NoBo shall provide, at no further cost to the Principal and/or the Beneficiaries, translation of the documents to one of – the Latvian, Lithuanian or Estonian languages.

19. SUB-CONTRACTORS AND STAFF

- 19.1. In carrying out the Verification Services, NoBo may only rely on the services of those approved sub-contractors **and staff listed in NoBo's Tender submitted to the Principal during the Procurement, as such list may, from time to time, be modified or supplemented in agreement with the Principal and in accordance with the terms and subject to the criteria contained in the Laws.** NoBo shall specify the name, contact details and legal representative(s) of each approved sub-contractor. NoBo shall have an obligation to notify the Principal in writing of any changes to sub-contractor and staff data occurring during the term of the Contract and of the required information for any new sub-Contractors and staff, which it may subsequently engage toward provision of the Verification Services.
- 19.2. NoBo shall obtain prior written consent of the Principal for the replacement of a sub-contractor or staff whose capacities the Principal has relied on during the selection or evaluation stages of the Procurement (the Principal is entitled to ask **sub-contractor's and staff's opinion regarding the reasons of replacement**).
- 19.3. Review and evaluation of the replacement sub-contractors and staff shall be carried out, and the consent or refusal to give consent shall be rendered by the Principal in accordance with the applicable Laws as per the Contract requirements.
- 19.4. The Principal shall be entitled to demand replacement of the sub-contractors and staff, which, during the effectiveness of this Contract, meets any of the compulsory grounds for exclusion of tenderers (or sub-contractors and staff) that were verified during the Procurement. The Principal shall also be entitled to demand replacement of the sub-contractors and staff on existence of reasonable grounds for their replacement, e.g., where the sub-contractors or staff do not perform in line with requirements and standards prescribed under the Contract or Laws, there are reasonable doubts as regards their integrity, etc.
- 19.5. NoBo shall retain the complete responsibility for the proper performance of all of its obligations under this Contract, 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 Contract, be deemed to be the act, failure to act, breach or negligence of NoBo.

20. INTELLECTUAL PROPERTY RIGHTS

- 20.1. All documentation and information forming part of the deliverables produced by rendering the Verification Services under this Contract is and shall become the property of the Principal and/or the Beneficiary in Lithuania,

and/or the Beneficiary in Latvia, and/or the Beneficiary in Estonia (i.e., the party(ies), which is(are) in charge of specific constituent of the Project, in respect of which the deliverable was produced by NoBo, which is(are) hereinafter in this Section of the Contract referred to as the Recipient) with a royalty free usage right to the Recipient and the Principal, at the moment NoBo is paid for the Verification Services (respective part thereof). For clarity, the owner of the specific deliverable as mentioned in the previous sentence of this Clause 20.1 shall be established based on the territory, to which the specific constituent of the Project belongs, add in case of the Republic of Latvia – the owner shall be the Ministry of Transport of the Republic of Latvia, and the deliverables may be held by the Principal, the Beneficiary of Latvia and/or the infrastructure manager to be appointed (based on the attribution of the Verification Services), as the case may be. For the avoidance of doubt everything that the Recipient receives fully or partly, also including information technology software, is assumed to be cleared of any intellectual property rights. It is acknowledged that the Recipient and the Principal shall be permitted to reproduce the drawings, schemes and distribute the prints in connection with the use or disposition of the documentation and information without any approval of NoBo and without incurring obligation to pay any royalties or additional compensation whatsoever to NoBo. For avoidance of doubt the Parties acknowledge that the Recipient and the Principal has the right to use the documentation and information for implementing the Project subject to the conditions set forth in the Contract without any obligation to consult NoBo or ask any permission from NoBo in advance. Without prejudice to the foregoing, the Parties hereby agree that nothing in this Contract **shall preclude NoBo from providing the European Union Agency for Railways with 'EC' certificates of verification of subsystems, 'EC' certificates of conformity of interoperability constituents and 'EC' certificates of suitability of use of interoperability constituents, as required by Law.**

- 20.2. NoBo hereby warrants that it shall obtain from its employees and sub-contractors and transfer, to the maximum extent permitted by Law, to the Recipient all intellectual property rights, including the right for further transfer of all intellectual property rights, pertaining to the Verification Services either individually or together. The Recipient may use the intellectual property as it deems appropriate without any obligations owed to NoBo (including, inter alia, its employees and sub-contractors).
- 20.3. NoBo represents and warrants that it owns all Intellectual Property in all documentation deliverable by or on behalf of NoBo for the purpose of successfully undertaking and completing this Contract and has fully discharged the Recipient from all obligations with respect to payment of any royalties or fees.
- 20.4. Notwithstanding any other rules NoBo represents and warrants to the Recipient that the Recipient shall acquire legal title to and ownership in the Intellectual Property in all documentation and deliverables to the Recipient under this Contract as of the moment NoBo is paid for the Verification Services (respective part thereof). For the avoidance of doubt, such title and ownership shall confer upon the Recipient each of the following, inter alia:
- 20.4.1. The right to reproduce the documentation and information, or any part thereof, and distribute copies of the documentation or information or any part thereof;
 - 20.4.2. The right to modify, amend and supplement the documentation or information, or any part thereof. In this case NoBo gives its full consent to any modifications that the Recipient may undertake. NoBo agrees not to use any intellectual property rights it may possess to hinder the use of the intellectual property according to the Contract and its intended purpose, which may include a need for change or modification;
 - 20.4.3. The right to license documentation or information, or any part thereof, for use by others; and
 - 20.4.4. The right to transfer ownership in the documentation or information, or any part thereof, to others.
- 20.5. 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 Remuneration payable to NoBo and no additional royalty, fee or other consideration of any kind shall be payable by the Recipient to NoBo or to any third party in consideration of the transfer of ownership in the intellectual property in any documentation or information.
- 20.6. In the event NoBo is a party to legal proceedings involving allegations of infringement of any intellectual property in the documentation or information of any third party, NoBo shall keep the Recipient (and the Principal – in all cases) fully informed of all aspects relevant to the legal proceedings and the Recipient. In the event NoBo fails to act against claims alleging infringement of any intellectual property in the documentation of any third party within reasonable time but, in any event, within fifteen (15) calendar days of having been notified of such claims, the Recipient shall have the right to assume legal defense against claims alleging infringement of intellectual property and shall be entitled to reimbursement by NoBo of reasonable costs and expenses incurred toward such defense.
- 20.7. In the event a court of competent jurisdiction or court of arbitration resolves in a binding judgment that the documentation or information, or any part thereof, infringe intellectual property of any third party, NoBo shall immediately, at its own cost and expense, procure for the Recipient and the Principal as the case may be the right of continued use of the documentation or information, or part thereof infringing intellectual property of a third party.

- 20.8. NoBo shall defend and indemnify the Recipient from and against direct damages arising from the use of any intellectual property transferred by NoBo.
- 20.9. **For the avoidance of doubt the term “intellectual property” shall also include all the electronic or other data or information obtained from NoBo or any other entity engaged by NoBo in the implementation of the Project, and for this reason the rights on this data or information, including any modelling, visual, graphical, technical or other electronical data and information shall become the property of the Recipient.**
- 20.10. For clarity, the Parties herewith acknowledge that nothing in the Contract and this Section of the Contract permits the Principal and the Beneficiaries to modify the content of the Verification Services deliverables produced under the Contract with respect to the Rail Baltica trackside infrastructure TSI(s) conformity assessment (Verification). It means that the Principal and the Beneficiaries cannot modify any deliverables furnished as a result of European Union wide regulated Verification procedures.

21. PRINCIPAL'S USE OF NOBO'S DOCUMENTS

- 21.1. NoBo shall at its own expense defend and settle any claim against the Principal and/or the Beneficiaries alleging **that the use of NoBo's documents produced by (or on behalf of) NoBo in accordance with the Contract infringes** the rights of a third party. If the infringement occurred in connection with improper performance of the Contract by NoBo, NoBo shall:
- 21.1.1. Pay infringement claim defense costs, settlement amounts negotiated and court-awarded damages and compensations;
 - 21.1.2. Incur all costs related to the possible covering of substantive and non-proprietary claims related to the infringement of proprietary or personal property rights of the person or persons reporting claims.
- 21.2. The Principal shall provide its reasonable assistance with respect to such proceeding or settlement to NoBo at **NoBo's cost. If the Principal or the Beneficiary** is a named party in the proceedings, NoBo shall keep the Principal and the respective Beneficiary fully informed and the Principal and the respective Beneficiary shall have the right to be present at the proceedings with a separate counsel at its own expense.
- 21.3. If NoBo fails to act against such claims or actions within reasonable time and no later than within ten (10) calendar days from being notified in writing by the Principal or by the respective Beneficiary, the Principal or the respective Beneficiary shall have the right to take appropriate legal action and shall be compensated for any and all expenses in doing so.

22. CONFIDENTIALITY

- 22.1. The confidential information regarding the Principal and Beneficiaries is the information regarding the Principal and Beneficiaries, which the Principal and/or Beneficiaries submit to NoBo (before or after the date the Contract is signed) in writing, orally or in any other form and that contains all kind of analyses, compilations, remarks, research, as well as technical, commercial and any other information on the activities of the Principal and/or Beneficiaries that has become available to NoBo during the execution of the Contract, except for:
- 22.1.1. The information the Principal confirms in writing is not a confidential information; or
 - 22.1.2. If NoBo can demonstrate that the information was already at his disposal or was known to him (as he used it or it was stored on his files, computers or other recording media) before it was received from the Principal and NoBo did not receive it from the Principal subject to the confidentiality obligation; or
 - 22.1.3. The information that NoBo has developed himself or that has been developed for NoBo, regardless of this Contract.
- 22.2. NoBo undertakes to:
- 22.2.1. Always keep the confidential information securely and not disclose it to the other persons; and
 - 22.2.2. Ensure that NoBo's subcontractors, officials, employees and agents shall not disclose the confidential information to other persons, except in the event where the Principal issues a written consent.
- 22.3. NoBo shall be entitled to disclose the confidential information without a written consent of the Principal in such cases:
- 22.3.1. Where reasonably required for the purpose of implementation of the Contract (including the disclosure of the confidential information to NoBo's employees, sub-contractors, agents, officials to **the extent to ensure the fulfilments of NoBo's obligations under the Contract**);

22.3.2. If the disclosure is required by Law, including, without limitation, the obligations stemming from Article 42 of Directive (EU) 2016/797.

22.4. In case of disclosure of information by NoBo, NoBo shall obtain from the recipient of the information the undertakings concerning the non-disclosure, equivalent to those applicable hereunder to NoBo (unless in case of disclosure required by Laws, where NoBo may not reasonably obtain such undertaking).

22.5. Regardless of the reasons the Contract is terminated NoBo shall:

22.5.1. Return to the Principal all the confidential information (originals) that is in the use or possession of NoBo;

22.5.2. Destroy such confidential information (copies) by using a safe and confidential method of destroying.

22.6. Except as required by Laws, NoBo, without a prior written consent of the Principal, shall be prohibited from issuing any public notices (such as press releases, etc.) in relation to the Contract.

22.7. The provisions contained within this Section of the Contract shall survive expiration of the Contract.

23. CONFLICT OF INTEREST

23.1. NoBo shall take all the necessary action and measures to ensure that there is no conflict of interest related to impartial and objective implementation of the Contract, in particular, as relates to economic interests, political or civic dependence, family or emotional ties or any other interests.

23.2. **NoBo represents that neither NoBo's staff nor any of its sub-contractors** and their staff have been and will not be in contact with any potential bidders for the design, construction and testing services for the Project. Any contact with the potential bidders shall be dealt exclusively with express permission of the Principal.

23.3. NoBo shall immediately notify the Principal in writing about any situation that emerged during the implementation of the Contract, as a result of which a conflict of interest arises or may arise.

23.4. NoBo shall immediately undertake all the necessary actions to ensure that any conflict of interest is duly eliminated.

23.5. The Principal reserves a right to verify whether the measures that have been undertaken by NoBo are sufficient and may require undertaking additional measures in accordance with the instructions set by the Principal.

24. ANTI-BRIBERY

24.1. NoBo shall not, and shall procure that its directors, employees, agents, representatives, contractors or sub-contractors shall not, engage in any activity, practice or conduct which would constitute an offence under any anti-bribery and anti-corruption Laws. NoBo shall have in place adequate procedures designed to prevent any person working for or engaged by NoBo or any other third party in any way connected to this Contract, from engaging in any activity, practice or conduct which would infringe such procedures or any anti-bribery and anti-corruption Laws.

25. DATA PRIVACY

25.1. For the purpose of implementation of the Contract, the Parties will eventually transfer to each other certain personal data, such as data on employees, sub-contractors and other data subjects (names, surnames, e-mail addresses, business addresses, phone numbers, copies of personal identification documents and the data contained therein, documents to support qualifications of the data subjects and other data relating to the implementation of the Contract).

25.2. The Parties agree and acknowledge that for the purpose of the Contract each of the Parties shall be viewed as controllers of personal data.

25.3. The personal data transferred by each Party to the other Party will be processed only in accordance with the procedure, terms and conditions established in the Contract.

- 25.4. The Party shall transfer the personal data to the other Party and such other Party shall process the personal data only for the purposes of implementation of the Contract and other such purposes as required by Laws. The Parties agree that except where the Party has a separate legal basis for processing the personal data referred to in the Laws governing the protection of personal data arising outside the Contract, they shall not process the personal data for any other purpose except as referred to in the present Clause of the Contract.
- 25.5. Besides other obligations provided for in the Contract and the Law, each of the Parties undertake:
- 25.5.1. to process the personal data to the minimum extent necessary;
 - 25.5.2. not to infringe any rights of the data subjects;
 - 25.5.3. to implement and apply proper and necessary organizational and technical measures ensuring the compliance with the requirements of the Laws;
 - 25.5.4. to duly keep records of the personal data processing activities if such an obligation arises from the requirements of the Laws;
 - 25.5.5. to immediately notify the other Party if, in the opinion of the notifying Party, the actions of the other Party are likely to violate the requirements of the Laws governing the protection of personal data;
 - 25.5.6. to ensure the compliance with other requirements of the Laws governing the protection of personal data.
- 25.6. Taking into account the level of development of technical capacities and the nature, scope, context and objectives of the processing of personal data, as well as the probability and seriousness of risks arising from data processing to rights and freedoms of data subjects concerned, each Party and the Beneficiary, prior to commencing the processing of personal data, will implement and maintain throughout the processing of personal data the appropriate technical and organizational measures necessary to ensure the protection of personal data and the protection and implementation of rights of the data subjects established in the Law.
- 25.7. In the event of personal data security violation, or if a Party reasonably suspects such a violation, such a Party or the Beneficiary shall immediately, however, in any case not later than within twenty-four (24) hours after having become aware of this, inform the other Party in writing and provide all information and data relating to such a violation. In this relevant case, the notifying Party shall provide at least the following information:
- 25.7.1. the nature of the personal data security violation, including, if possible, categories and an approximate number of data subjects involved as well as categories and an approximate number of relevant records of personal data;
 - 25.7.2. the name and contact details of the data protection officer and the name and contact details of another person who can provide more information;
 - 25.7.3. the expected consequences of the personal data security violation;
 - 25.7.4. the measures taken or proposed to be taken in order to eliminate the personal data security violation, including, where appropriate, measures to reduce the potential negative consequences thereof.
- 25.8. The Parties shall cooperate in every possible way and assist each other in (i) eliminating the violation of the personal data security as well as its negative consequences, and/or (ii) proving that all necessary measures have been taken to prevent and correct the violation.
- 25.9. Each Party shall properly document the fact of the personal data security violation and any actions of elimination of its consequences in order at the request of the other Party it would be possible to effectively prove that the Parties have taken all measures provided for in the Law. At the request of the other Party, the Party shall provide it with such documentation.
- 25.10. Each of the Parties shall be entitled to transfer personal data to third parties and/or to a third state or to international organization, including the transfer of personal data for the purpose of their processing, only in accordance with the procedure and conditions defined in the Laws. At the request of a Party, the other Party shall provide detailed information about what personal data has been transferred to what third state or international organization.
- 25.11. In the event of a reasonable suspicion that the other Party inadequately implements the data processing requirements, the Party shall be entitled to suspend the provision of all or some personal data to the other Party until the latter eliminates the violation and presents evidence thereof and confirms its obligation to comply with this Contract and the requirements of the Laws in the future.
- 25.12. Upon the disappearance of legal grounds to process personal data established in this Contract, each of the Parties shall undertake to terminate the processing of personal data, unless it has a separate and independent right (arising outside the Contract) to process the personal data.

26. NON-RECRUITMENT AND NON-ENGAGEMENT REQUIREMENTS

- 26.1. During the period of the Contract, and in the event of any termination, suspension of the Contract and until the **expiration of the Contract, NoBo shall not and shall cause NoBo's sub-contractors**, board members, employees, or any other personnel or entity assigned by NoBo not to, without the prior consent of the Principal, either directly or indirectly, on his own behalf or in the service of or on behalf of others, solicit or attempt to solicit for employment (headhunt) and/or solicit for any engagement with employment purpose of any person employed or engaged with the Principal and ultimate beneficiaries under the Project, and whether or not such employment is pursuant to a labour or independent contractor agreement and whether or not such employment or engagement is for a determined period or is limited in any manner.
- 26.2. **NoBo's non-compliance** with the conditions set forth in this Section of the Contract **and/or with the Principal's instructions** towards NoBo regarding these non-recruitment and non-engagement requirements, constitutes a material breach (breach of a material term or condition) of the Contract.

27. MAINTENANCE OF RECORDS

- 27.1. During the term of and ten (10) years from expiration or termination of this Contract for any reason whatsoever, NoBo shall keep and maintain clear, adequate and accurate records and evidence regarding the provision of the Verification Services to the extent reasonably necessary to comply with the requirements of the Contract and Law. This period shall be extended if there are any relating on-going audits, appeals, litigation or pursuit of claims. In such cases the records shall be kept until such audits, appeals, litigation or pursuit of claims are closed. During the above-mentioned term, NoBo shall ensure access to the necessary documentation.

28. ON-THE-SPOT VISITS

- 28.1. This Section 28 of the Contract stipulates mandatory requirements of the European Union auditing rules towards on-the-spot visits as described herewith.
- 28.2. By submitting a written notice five (5) calendar 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 Contract are or were carried out.
- 28.3. 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.
- 28.4. NoBo 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 Contract, 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.
- 28.5. By virtue of Council Regulation (Euratom, EC) No 2185/96 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 883/2013 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.

29. RIGHT TO AUDIT

- 29.1. This Section 29 stipulates mandatory requirements of the European Union auditing rules towards right to audit as described herewith.

- 29.2. Notwithstanding anything to the contrary set forth in the Contract, the Principal itself, a reputable outside independent body or an expert engaged and authorised by the Principal shall be entitled to inspect and/or audit NoBo to ensure compliance with the terms of the Contract and European Union financing rules, including inspecting and/or auditing:
- 29.2.1. the performance of any aspect of the Verification Services; and/or
 - 29.2.2. any documentation, including all payrolls, accounts of NoBo and/or other records used in or related to the performance of the Verification Services.
- 29.3. NoBo 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 of the Contract. 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 NoBo is not compliant with the terms of this Contract, in which case NoBo shall reimburse the Principal for all of its additional reasonable costs incurred, provided such non-compliance is material.
- 29.4. The rights and obligations of the Principal set forth in accordance with this Section of the Contract shall survive expiration or termination of the Contract for any reason and shall continue to apply during ten (10) years following expiration or termination of this Contract for any reason whatsoever.
- 29.5. NoBo is under obligation to retain in immediately accessible readable format all working files, correspondence and in paper or email for the time period of ten (10) years after expiry of the Contract.

30. FORCE MAJEURE

- 30.1. The Party (and/or the Beneficiaries) shall be exempt from any liability for non-performance of the Contract in full or partially, if the non-performance is due to Force Majeure conditions after the Contract has come into effect, which were beyond the control of the Party (and/or the Beneficiaries) to prevent or predict.
- 30.2. The Party subject to Force Majeure conditions shall immediately and not later than within three (3) calendar days after the occurrence of Force Majeure conditions notify the other Party thereof in writing, and where possible shall attach to the notification a statement, which is issued by a competent authority and contains the confirmation and characterization of Force Majeure conditions.
- 30.3. Where due to Force Majeure conditions the contractual liabilities are not met for more than three (3) months, each Party (in case of the Beneficiaries – **through the Principal's notification**) is entitled to Contract termination subject to a written notification to the other Party at least ten (10) calendar days in advance. In such case, the Parties cannot claim for compensation of damages due to Contract termination.
- 30.4. Neither of the Parties (and/or the Beneficiaries) shall be held liable for damages due to Force Majeure conditions, where the relevant Party has notified the other Party (and/or the Beneficiary) according to Clause 30.2 of the Contract.

31. LAW AND DISPUTE RESOLUTION

- 31.1. This Contract shall be governed and interpreted in accordance with the laws of the Republic of Latvia.
- 31.2. If any provision of this Contract is held invalid under the applicable laws of the Republic of Latvia, the remainder of the Contract shall not be affected unless the provisions held invalid shall substantially impair or make impossible the benefits of the remaining portions of the Contract. If any provision of the Contract should be or should become invalid, whether in whole or in part, or cease to be binding the Parties, NoBo and the Principal shall negotiate in good faith to revise or replace it with the new language reflecting as closely as possible the commercial intent of the Contract, in particular Clause 1.6 of the Contract.
- 31.3. Any and all disputes, controversies or claims arising out of or relating to this Contract, including, without limitation, its performance, breach, termination or validity shall be first settled by way of amicable negotiations, and then pursuant to the rules for adjudication as per Annex 4 hereto. Should the Parties fail to settle such disputes, controversies or claims by amicable negotiations and/or pursuant to the above-captioned rules for adjudication pursuant to these rules, they shall be referred for final settlement by arbitration in accordance with Clause 31.4 of the Contract. For clarity, if NoBo and the Principal (or either of them) are not satisfied with the decision of the adjudicator, a dispute can be finally settled in accordance with Clause 31.4 of the Contract.

- 31.4. Any dispute, controversy or claim, arising out of or relating to this Contract, including, without limitation, its performance, breach, termination or validity, which is not settled out during amicable negotiations and pursuant to the above-captioned rules for adjudication within forty-five (45) calendar days, shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce. Without prejudice to the procedural rules laid down in the foregoing sentence, the dispute shall be settled in accordance with the substantive law of the Republic of Latvia (i.e., the subject and merits of the dispute shall be governed by the substantive law of the Republic of Latvia). The arbitration shall be conducted in the English language. The place of arbitration shall be Stockholm, Sweden. The arbitral tribunal shall be composed of three (3) arbitrators. Decision of arbitration shall be final and binding on the Parties.
- 31.5. Where any part of the Verification Services under the Contract fall within the scope of the national jurisdiction of either the Republic of Latvia, the Republic of Lithuania or the Republic of Estonia, then mandatory (imperative) provisions of the said relevant jurisdiction(s) shall apply to the corresponding part of the Verification Services (including their deliverables), including, but not limited to different requirements by NSAs and existing national rules and standards in the field of the administration of European Union funds.
- 31.6. All dispute resolution related clauses set-forth in the Contract shall survive the Contract termination for any reason.

32. MISCELLANEOUS

- 32.1. The Contract is concluded in writing. In the cases provided for in the Contract and in Laws, the Contract can be amended by NoBo and the Principal by joint agreement. Any amendments or supplements to the Contract shall be made in writing and shall become an integral part of the Contract when signed by NoBo and the Principal.
- 32.2. This Contract (including its annexes) contains the whole understanding between the Parties with respect to the subject matter hereof and supersedes all previous understandings, oral or written, between the Parties in this regard.
- 32.3. Each Party shall pay its own costs and expenses (including **attorneys' fees**) incurred by it or required by law to be incurred by it, in connection with the negotiation, execution and performance of this Contract.
- 32.4. If any provision hereof expires, becomes invalid or unenforceable, the remaining provisions will continue to be valid and enforceable as if the provision that expired, became invalid or unenforceable were not incorporated herein. If the provision that expired, became invalid or unenforceable materially affects the interpretation of other valid provisions of the Contract, NoBo and the Principal shall negotiate in good faith in order to agree on the wording of an effective provision to replace the provision that expired, became invalid or unenforceable. Where any of the Laws specified in the Contract become null and void and the new Laws come into force regulating the same issues that were regulated by the void Law, then upon entering into force the new and valid Laws shall be applied.
- 32.5. This Contract or the rights and obligations arising therefrom shall not be assignable in whole or in part by any Party hereto without the written consent of the other Party. For clarity, the Principal shall be entitled to unilaterally assign/novate the whole or part of the Contract and or the rights/obligations arising from the Contract to the managers of infrastructure to be created as a result of the Project or other Project stakeholders, such as, without limitation, entities designated by the relevant governmental bodies within Republic of Latvia, Republic of Lithuania or Republic of Estonia. NoBo hereby and in line with Clause 6.5 of the Contract undertakes to cooperate and sign all and any agreements, deeds and other documents required for such assignment/novation. In particular, where an update to and/or issuance of the new **'EC' certificate of verification and/or ISV** is required as a result of assignment/novation for the purpose of completion of the Project and, specifically, placement of the respective subsystem into service, NoBo shall, at no further cost to the Principal and/or Beneficiaries, update/issue new **'EC' certificates of verification and/or ISVs, that have been issued prior to assignment/novation of the Contract.**
- 32.6. This Contract shall be binding upon and inure to the benefit of the Parties their respective successors and permitted assigns. Unless otherwise provided under the Contract or Law, nothing expressed or referred to in this Contract will be construed to give any party, other than the Parties to this Contract, any legal or equitable right,

remedy or claim under or with respect to this Contract or any provision of this Contract except such rights as may inure to a successor or permitted assignee.

- 32.7. Each Party will (at its own cost) do and execute, or procure to be done and executed, each necessary act or document reasonably within its power to implement its obligations under this Contract.
- 32.8. By signature of the Contract, each of: the Principal and Beneficiaries are authorizing NoBo to represent the Principal and/or the Beneficiaries in state, municipal and other regulatory authorities in the Republic of Latvia, the Republic of Lithuania and/or the Republic of Estonia, including authorization to draft, to sign, to submit, to receive and to accept documents and information on behalf of the Principal and/or the Beneficiaries, to the extent this is required for the purpose of implementation by NoBo of the Contract. The term of authorisation shall coincide with the term of the Contract. Where required and on NoBo's request, the Principal shall issue a power of attorney to NoBo as a separate document.
- 32.9. NoBo hereby certifies that NoBo entered into this Contract while considering the requirements set-forth in Clauses 9.20 and 9.21 of the Contract, and **settled and resolved all questions and issues regarding NoBo's** commercial and taxing activities in three (3) Baltic States, in particular with respect to national registration, compliance with taxing requirements, establishment of branches (if required), etc.
- 32.10. This Contract is made in four (5) counterparts in the English language, one (1) for NoBo, one (1) for the Principal, and two (3) for each of the Beneficiaries.
- 32.11. This Contract enters into force on the date of its execution by the Parties. Unless in case of early termination, the Contract shall expire upon full execution of the obligations by the Parties.

33. ANNEXES

- 33.1. At the time of signing, the following Annexes were attached to the Contract, all of which form an integral part of the Contract:
- 33.1.1. Annex 1 – Additional Conditions;
- 33.1.2. Annex 2 – Form of the Transfer-Acceptance Deed;
- 33.1.3. Annex 3 – Form of the Performance Bond;
- 33.1.4. Annex 4 – Rules for Adjudication;
- 33.1.5. Annex 5 – Technical Specification;
- 33.1.6. Annex 6 – **NoBo's** Tender;
- 33.1.7. Annex 7 – Verification Programme;
- 33.1.8. Annex 8 – Form of the Deed on Commencement;
- 33.1.9. Annex 9 – Order form.
- 33.2. In case of discrepancies in the texts of the annexes, the provisions of the annex listed first shall prevail, and clarifications of the documents received during the Procurement stage shall prevail in any occasion.

34. DETAILS OF THE PARTIES

Details of the Principal	Details of the Beneficiary in Estonia	Details of the Beneficiary in Lithuania
Title: RB Rail AS	Title: RAIL BALTIC ESTONIA OÜ	Title: AB "LIETUVOS GELEŽINKELIŲ INFRASTRUKTŪRA"
Registration No 40103845025	Registration No 12734109	Registration No 305202934
Tax registration No LV40103845025	Tax registration No EE101954107	Tax registration No LT100012666211
Address: Krišjāņa Valdemāra iela 8-7, LV-1010 Riga, Latvia	Address: Endla tn 16, Tallinn, 10142, Estonia	Address: Mindaugo g. 12, LT-03225 Vilnius, Lithuania
Bank: Luminor Bank AS Latvijas filiāle	Bank: AS SEB Pank	Bank: Swedbank, AB
Account No: LV73NDEA0000084270995	Account No: EE491010220236366223	Account No: LT21 7300 0101 5917 5126
Code: NDEALV22	Code: EEUHEE2X	Code: 73000, SWIFT HABALT22

E-mail: NoBolInvoices@railbaltica.org	E-mail: info@rbe.ee	E-mail: lginfra@litrail.lt
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Details of the Beneficiary in Latvia	Details of NoBo (general partner's data)
Title: sabiedrība ar ierobežotu atbildību "EIROPAS DZELZCEĻA LĪNIJAS"	Title: Certifer SA
Registration No 40103836785	Registration No 802053397
Tax registration No LV40103836785	Tax registration No FR28 802 053 397 00039
Address: Gogoļa iela 3, Rīga, Latvia	Address: 18, Rue edmond membré, 59300 Valenciennes, France
Bank: Luminor Bank AS Latvijas filiāle	Bank: CIC BANK
Account No: LV69RIKO0000084691697	Account No: FR76 3002 7177 4100 0200 8750 108
Code: RIKOLV2X	Code: CMCIFRPP
E-mail: edzl@edzl.lv	E-mail: contact@certifer.eu

IN WITNESS WHEREOF, each Party hereto has duly signed this Contract as of the date first above written:

THE PRINCIPAL (FOR ITSELF AND ON BEHALF OF THE BENEFICIARIES IN LITHUANIA AND ESTONIA):

Name Surname: Agnis Driksna

Position: RB Rail AS Chairperson of the Management Board

Signature:

Date: 11 June 2020

NOBO:

Name Surname: Pierre Kadziola

Position: Certifer SA Managing Director

on behalf of Certifer SA and Network Rail Certification Body Limited

Signature:

Date: 11 June 2020

THE BENEFICIARY IN LATVIA:

Name Surname: Kaspars Vingris

Position: **sabiedrība ar ierobežotu atbildību "EIROPAS DZELZCEĻA LĪNIJAS"**

Chairperson of the Management Board

Signature:

Date: 11 June 2020

Name Surname: **Tālis Laizāns**

Position: **sabiedrība ar ierobežotu atbildību "EIROPAS DZELZCEĻA LĪNIJAS"**

Management Board Member

Signature:

Date: 11 June 2020

Annex 1

to the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (verification)

ADDITIONAL CONDITIONS

1. SECURITY CLEARANCE REQUIREMENTS

- 1.1. NoBo shall not involve in implementation of the Contract the employees and/or staff, including but not limited to key office-holders, key personnel, designers, design supervisors, engineers, construction and design specialists, consultants and sub-contractors who have a criminal record.
- 1.2. NoBo shall submit to the Principal the name, surname, personal code (identification number), professional title (job position) of every person that will implement the Contract and/or will be present on site at least ten (10) Business days prior involvement of this person in the implementation of the Contract and/or its presence on site. NoBo shall also provide a brief (concise) description of duties towards the implementation of the Contract of such person, if requested by the Principal.
- 1.3. The Principal has a right to demand dismissal of such a natural person non-compliant with the security clearance requirements stipulated in the Contract or Laws at the Principal's **sole discretion on the basis of the** Principal's written request for dismissal. Parties agree that such Principal's **decision is incontestable**.
- 1.4. NoBo 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 Contract is promptly and duly eliminated.
- 1.5. NoBo is obliged:
 - 1.5.1. To prevent involvement of such a natural person in the implementation of the Contract, and to prevent the presence of this person in the real estate, construction site or any other site, and
 - 1.5.2. To immediately replace the dismissed person according to the Law (in particular, Article 62 of the Public Procurement Law of the Republic of Latvia) and the Contract, and
 - 1.5.3. To comply with the Principal's **written instructions pursuant to the Contract and not to challenge these** instructions, and
 - 1.5.4. To inform the Principal about dismissal or replacement proceedings pursuant to the present Annex.
- 1.6. In any occasion NoBo shall immediately notify the Principal in writing about any situation that emerged before and during the implementation of the Contract, as a result of which there could appear or appears a risk of involving such a natural person in the implementation of the Contract, and about the immediate replacement of non-compliant or dismissed natural person involved in the implementation of the Contract.
- 1.7. In case if the immediate dismissal or replacement of the dismissed natural person non-compliant with the security clearance requirements stipulated in this annex results in the unreasonable increase of the costs towards NoBo, NoBo shall immediately inform the Principal about this fact in written and the Principal and NoBo shall agree upon the conditions of the provision of the Verification services.
- 1.8. **NoBo's non-compliance** with the security clearance requirements stipulated in the Contract, the Principal's instructions towards NoBo regarding these security clearance requirements or other provisions of this section constitutes a material breach (breach of a material term or condition) of the Contract.

2. VISIBILITY REQUIREMENTS

2.1. NoBo shall comply with the following visibility requirements:

- 2.1.1. any report, brochure, document or information related to the Verification services conducted by NoBo hereunder or any other person, or which NoBo makes publicly available shall include each of the following:
- a) a funding statement which indicates that the Project is financed from CEF funds substantially in the **following form: "Rail Baltica is co-financed by the European Union's Connecting Europe Facility";**
 - b) with respect to printed materials, a disclaimer releasing the European Union from liability with respect **to any contents of any distributed materials substantially in the form as follows:** "The contents of this publication are the sole responsibility of [name of the implementing partner] and do not necessarily reflect the opinion of the European Union". **The disclaimer in all official languages of the European Union can be viewed on the website <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>; and**
 - c) the flag of the Council of Europe and the European Union.

2.1.2. The requirements set forth in the previously mentioned clauses can be complied with by means of utilizing the following logo:



- 2.1.3. In the event NoBo decides to utilize the above logo, NoBo 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.
- 2.1.4. In order to comply with the latest applicable visibility requirements established by the European Union, NoBo shall regularly monitor changes to visibility requirements; as of the date hereof, 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>.
- 2.1.5. In the event of changing or adding additional funding source, NoBo shall update visibility elements, if requested to do so.

Annex 2

to the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification)

FORM OF THE TRANSFER-ACCEPTANCE DEED

[insert place and date of signing]

It is hereby certified that [insert full name and position title] of NoBo delivered to the Principal, and the Principal accepted the following documents, calculations and other deliverables related to the Verification services under the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification), executed between the Principal, the Beneficiaries and NoBo on [insert the date of the Contract] (hereinafter the Contract):

Item No	Name and description of the document, calculation or other deliverable, with relevant references to order number and Verification Programme item number	Form (original in hard copy or electronic)	Quantity

By signing this Certificate, the Principal represents and confirms that NoBo has duly delivered the documents, calculations and other deliverables listed above.

This Certificate is made in [insert number of duplicates and write-in recipients]

For and on behalf of NoBo:
[insert full name and position title]

For and on behalf of the Principal:
[insert full name and position title]

signature

signature

Annex 3

to the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification)

FORM OF THE PERFORMANCE BOND

To the Beneficiary: RB Rail AS, registration No 40103845025
Legal address: **Krišjāņa Valdemāra iela 8-7**, LV-1010 Riga, the Republic of Latvia

**Payment guarantee No [insert number]
[insert place and date of issuance]**

Guarantor: [identify bank, insurance company (re-insurance company) or financial institution by specifying its full name and legal form, registration number, and legal address]

Applicant: [specify NoBo's full name and legal form, registration number, legal address]

Beneficiary: RB Rail AS.

Date: [insert date]

Underlying Relationship: the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification), executed between RB Rail AS, registration No 40103845025, legal address: **Krišjāņa Valdemāra iela 8-7**, LV-1010 Riga, Latvia, as the Principal, **AB "LIETUVOS GELEŽINKELIŲ INFRASTRUKTŪRA"**, registration No 305202934, legal address: Mindaugo g. 12, Vilnius, the Republic of Lithuania, as the Beneficiary in Lithuania, which is represented by the Principal, RAIL BALTIC ESTONIA OÜ, registration No 12734109, legal address: Endla tn 16, Tallinn, 10142, the Republic of Estonia, as the Beneficiary in Estonia, which is represented by the Principal, **sabiedrība ar ierobežotu atbildību "EIROPAS DZELZCEĻA LĪNIJAS"**, registration No 40103836785, legal address: **Gogoļa iela 3**, Riga, Latvia, as the Beneficiary in Latvia, which is represented by the Principal, and [insert the name of NoBo, registration No of NoBo and legal address of NoBo] as NoBo, on [insert the date of the Contract] (hereinafter the Contract) and obligations of the Applicant to perform the Contract in accordance with the terms of the Contract.

Guarantee Amount and currency: [EUR _____ (_____ *euro*)].

Document in support of the demand for payment and form of submission: a demand issued by RB Rail AS (the Principal) in accordance with Clause 12.10 of the Contract, namely:

- Paper form (written) demand signed by all Management Board Members of the Principal which shall be sent by courier to the legal address of the guarantor with a copy to the legal address of NoBo; or
- **Electronical form (scanned and signed ".PDF" file**, whereas the file may be in a asice or similar container) to the e-mail of the guarantor as indicated in the Performance Bond by using safe electronic signature with a time stamp; shall be signed by all Management Board Members of the Principal; or
- authenticated SWIFT message using SWIFT submission system (not necessarily but can be combined with scanned **and signed ".PDF" file**, whereas the file may be in a asice or similar container, and secured by sing safe electronic signature with a time stamp; shall be signed by all Management Board Members of the Principal).

Language of all required documents: the English language.

Expiry: [insert date].

As Guarantor, we hereby irrevocably and unconditionally undertake to pay the Beneficiary any amount up to the **Guarantee Amount upon presentation of the first Beneficiary's complying demand, in the form of presentation indicated above and supported, in any event, by the Beneficiary's statement, whether in demand itself or in a separate signed document accompanying or identifying the demands, indicating in what amount the Applicant is in breach of its obligations under the Underlying Relationship.** Any demand under this Guarantee must be received by us on or before Expiry and pursuant to the form of submission conditions indicated above.

We further agree that no change or addition to or other modification of the terms of the Contract shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification. We **hereby also waive any options, possibilities or rights to reject or suspend the Beneficiary's demand if it is issued in accordance with the form mentioned above.** The Beneficiary shall not be obliged to justify its demand. The Beneficiary is entitled to transfer (assign) the Guarantee (the rights arising therefrom). The Guarantor has been notified that the Beneficiary may require the Applicant to extend the Guarantee.

Applicable law and Disputes: This Guarantee shall be governed by and construed in accordance with the law of the Republic of Latvia. Any dispute, controversy or claim arising out of or relating to this Guarantee shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce. The dispute shall be settled in accordance with the laws of the Republic of Latvia by one (1) arbitrator. The arbitration shall be conducted in the English language. The place of arbitration shall be Stockholm, Sweden. Decision of arbitration shall be final and binding on the Parties.

This Guarantee cannot be changed or terminated, and it cannot be assigned to any other third-party or used as a bond without a prior written consent of the Beneficiary.

This Guarantee is executed in two (2) originals – the Beneficiary and the Guarantor shall each receive one (1) original.

SIGNATURE AND SEAL OF THE GUARANTOR

Date

.....

Name of bank or insurance company (re-insurance company) or financial institution

.....

Address

.....

Annex 4

to the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification)

RULES FOR ADJUDICATION

CONTENT

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II General Conditions of Dispute Adjudication Contract	5
III Form of Dispute Adjudication Contract	8

I RULES FOR ADJUDICATION

General

1. Any reference in the Contract to the rules for adjudication shall be a reference to these Rules for Adjudication (hereinafter "the Rules").
2. Definitions in the Contract shall apply in the Rules.

Appointment of Adjudicator

3. The Principal and NoBo shall jointly ensure that the Adjudicator shall be a suitable qualified person.
4. If for any reason the appointment of the Adjudicator is not agreed (a dispute adjudication contract is not signed) at the latest within fifteen (15) days by the Principal and NoBo of the reference of a dispute in accordance with the Rules, NoBo and the Principal may skip the reference of a dispute to the Adjudicator, and proceed with the arbitration as per Clause 31.4 of the Contract without an option to refer the same dispute to the Adjudicator.
5. **The Adjudicator's appointment may be terminated by the mutual agreement of the Principal and NoBo. The Adjudicator's appointment shall expire when the Verification services have been completed or when any disputes referred to the Adjudicator shall have been withdrawn or decided, whichever is the later.**

Terms of Adjudicator

6. The Adjudicator is to be and shall remain throughout his/her appointment, impartial, and independent of the Parties and shall immediately disclose in writing to the Parties anything of which he/she becomes aware which could affect his/her impartiality or independence.
7. The Adjudicator shall not give advice to the Parties or their representatives concerning the conduct of the Project of which the Verification services form part other than in accordance with the Rules.
8. The Adjudicator shall not be called as a witness by the Parties to give evidence concerning any dispute in connection with or arising out of the Contract.
9. The Adjudicator shall treat the details of the Contract and all activities, and hearings of the Adjudicator as confidential and shall not disclose the same without a prior written consent of the Parties. The Adjudicator shall not, without a prior written consent of the Principal and NoBo, assign or delegate any of his/her work under the Rules or engage legal or technical assistance.
10. The Adjudicator may resign by giving thirty (30) **days' notice to the** Principal and NoBo. In the event of resignation, death or incapacity, termination or a failure or refusal to perform the duties of the Adjudicator under the Rules, the Principal and NoBo shall agree upon a replacement of the Adjudicator within fifteen (15) days. In case of failure to agree regarding replacement of the Adjudicator within fifteen (15) days, Rule 4 above shall apply.
11. The Adjudicator shall in no circumstances be liable for any claims for anything done or omitted in the discharge **of the Adjudicator's duties unless the act or omission is shown to have been in bad faith.**
12. If the Adjudicator shall knowingly breach any of the provisions of Rule 6 above or act in bad faith, he/she shall not be entitled to any fees or expenses hereunder and shall reimburse the Principal and NoBo for any fees and expenses properly paid to him/her if, as a consequence of such breach, any proceedings or decisions of the Adjudicator are rendered void or ineffective.

Payment

13. The Adjudicator shall be paid the fees and expenses set out in the Dispute Adjudication Contract.
14. All payments to the Adjudicator shall be made by the Principal and NoBo in equal parts. The Principal is entitled to request the Beneficiaries to reimburse the corresponding (proportional) part of these payments to the Principal.
15. All payments to the Adjudicator shall be made within sixty (60) days upon receipt of **the Adjudicator's invoice and the Adjudicator's decision as per Rule 21.**

16. The Adjudicator shall submit to NoBo and the Principal, an invoice for the fee of his/her dispute resolution services and expenses based on the Dispute Adjudication Contract conditions.

Obtaining Adjudicator's Decision

17. A dispute between the Principal and NoBo may be referred in writing by NoBo or the Principal to the Adjudicator for the decision, with a copy to the other party of the dispute. If the Adjudicator has not been agreed or appointed, the dispute shall be referred in writing to the other party to the dispute, together with a proposal for the appointment of an Adjudicator. A reference shall identify the dispute and Rules.
18. The Adjudicator may decide to visit the site(s), offices or any other location(s) of the Project. The Adjudicator may decide to conduct a hearing in which event he/she decides on the date, place and duration for the hearing. The Adjudicator may request that written statements from the Parties be presented to him/her prior to, at or after the hearing. The Parties shall promptly provide the Adjudicator with sufficient copies of any documentation and information relevant to the Contract that may be requested. All these activities shall be carried out in an open, impartial and transparent way without giving any procedural or other advantages to NoBo or the Principal.
19. The Adjudicator shall act as an impartial expert, not as an arbitrator, and shall have full authority to conduct any hearing as he/she thinks fit, not being bound by any rules or procedures other than those set herein. The Principal and NoBo empower the Adjudicator, among other things to:
 - (a) establish the procedure to be applied in deciding a dispute,
 - (b) make use of his/her own specialist knowledge, if any,
 - (c) adopt an inquisitorial procedure,
 - (d) open up, review and revise any opinion, instruction, determination, certificate or valuation, related to the dispute,
 - (e) refuse admission of hearings to any persons other than the Principal, NoBo and their respective representatives, and to proceed in the absence of any party to the dispute who the Adjudicator is satisfied received notice of the hearing.
20. All communications between either of the Principal or NoBo and the Adjudicator and all hearings shall be in the language of the Dispute Adjudication Contract. All such communications shall be copied to the other party to the dispute.
21. Not later than within thirty (30) days after the day on which the Adjudicator received a reference or, if later, the day on which the Dispute Adjudication Contract came into effect, the Adjudicator shall give a written notice of his/her decision to the Parties. Such decision shall include reasons and state that it is given under the Rules.

II GENERAL CONDITIONS OF THE DISPUTE ADJUDICATION CONTRACT

1. Definitions

"Dispute Adjudication Contract" is a tripartite agreement by and between:

1. the "Principal";
2. "NoBo"; and
3. the "Adjudicator".

The Principal, the Beneficiaries and NoBo have entered (or intend to enter) into a contract, which is called the "Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification)" and is defined in the Dispute Adjudication Contract, which incorporates this Appendix. In the Dispute Adjudication Contract, words and expressions, which are not otherwise defined, shall have the meanings assigned to them in the "Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (verification)" ("**the Contract**").

2. General Provisions

1. The Dispute Adjudication Contract shall take effect when the Principal, NoBo and the Adjudicator have respectively each signed a dispute adjudication contract.
2. This employment of the Adjudicator is a personal appointment. No assignment or subcontracting of the Dispute Adjudication Contract is permitted without a prior written agreement of all the parties to it.

3. Warranties

1. The Adjudicator warrants and agrees that he/she is and shall be impartial and independent of the Principal, the Beneficiaries and NoBo. The Adjudicator shall promptly disclose to each of them any fact or circumstance which might appear inconsistent with his/her warranty and agreement of impartiality and independence.
2. When appointing the Adjudicator, the Principal and NoBo relied upon the Adjudicator's representations that he/she is:
 - (i) experienced in the work, which NoBo is to carry out under the Contract;
 - (ii) experienced in the interpretation of Contract documentation; and
 - (iii) fluent in the language for communications defined in the Contract.

4. General Obligations of the Adjudicator

The Adjudicator shall:

- (a) have no interest financial or otherwise in the Principal, the Beneficiaries or NoBo, nor any financial interest in the Contract except for payment under the Dispute Adjudication Contract;
- (b) not previously have been employed, involved in consulting or otherwise somehow engaged as a consultant or otherwise by the Principal, the Beneficiaries or NoBo, except in such circumstances as were disclosed in writing to the Principal and NoBo before they signed the Dispute Adjudication Contract;
- (c) have disclosed in writing to the Principal and NoBo before entering into the Dispute Adjudication Contract and to his/her best knowledge and recollection, any professional or personal relationships with any director, officer or employee of the Principal, the Beneficiaries or NoBo, and any previous involvement in the overall project of which the Contract forms part;
- (d) not, for the duration of the Dispute Adjudication Contract, be employed as a consultant or otherwise by the Principal, the Beneficiaries or NoBo, except as may be agreed in writing jointly by the Principal and NoBo;
- (e) comply with the Rules for Adjudication contained in Annex 4 of the Contract and with Clause 31.3 of the Contract;
- (f) not give advice to the Principal, the Beneficiaries or NoBo concerning the conduct of the Contract, other than in accordance with the Rules for Adjudication;

(g) not enter into discussions or make any agreement with the Principal, the Beneficiaries or NoBo regarding employment by any of them, whether as a consultant or otherwise, after ceasing to act under the Dispute Adjudication Contract;

(h) ensure his/her availability for any site visit and hearings as are necessary; and

(i) treat the details of the Contract and all the activities and hearings as private and confidential, and not publish or disclose them without a prior written consent of the Principal and NoBo.

5. General Obligations of the Principal and NoBo

1. The Principal and NoBo shall not request advice from or consultation with the Adjudicator regarding the Contract. The Principal and NoBo shall be responsible for compliance with this provision.
2. The Principal and NoBo undertake to each other and to the Adjudicator that the Adjudicator shall not, except as otherwise agreed in writing by the Principal, NoBo and the Adjudicator:
 - (i) be appointed as an arbitrator in any arbitration under the Contract;
 - (ii) be called as a witness to give evidence concerning any Dispute before arbitrator(s) appointed for any arbitration under the Contract; or
 - (iii) be liable for any claims for anything done or omitted in the discharge or purported discharge of the Adjudicator's functions, unless the act or omission is shown to have been in bad faith.

6. Payment

1. The Adjudicator shall be paid for the dispute resolution services by the Principal and NoBo (in equal parts) an amount in *euro*, VAT inclusive, which amount needs to be agreed in each and every case with the Adjudicator separately and needs to be specified in the Dispute Adjudication Contract, within sixty (60) days upon receipt of the **Adjudicator's invoice and the Adjudicator's decision as per Rule 21**.
2. The fee indicated in the foregoing clause shall be all-inclusive with respect to any expenses and shall reflect the total amount of all **Adjudicator's expenses** required in order to resolve a specific dispute between NoBo and the Principal.
3. If NoBo or the Principal fails to pay to the Adjudicator the amount to which he/she is entitled under the Dispute Adjudication Contract, NoBo or the Principal shall, as the case may be, cover the **non-compliant party's debt and pay to the Adjudicator the other party's expenditure**. Consequently, the other party to the dispute shall be entitled to reimbursement of all sums paid in excess of one-half of these payments.

4. Default of the Adjudicator

If the Adjudicator fails to comply with any obligation under the Dispute Adjudication Contract or the Contract, he/she shall not be entitled to any fees or expenses hereunder and shall, without prejudice to their other rights, reimburse each of the Principal and NoBo for any fees and expenses received by the Adjudicator (including those paid as an advance), for proceedings or decisions (if any) of the adjudication which are not duly and properly rendered, or rendered void or ineffective.

5. Dispute Resolution

Any dispute or claim arising out of or in connection with this Dispute Adjudication Contract, or the breach, termination or invalidity thereof, shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one (1) arbitrator. The dispute shall be settled in accordance with the laws of the Republic of Latvia. The arbitration shall be conducted in the English language. The place of arbitration shall be Stockholm, Sweden.

III FORM OF DISPUTE ADJUDICATION CONTRACT

Identification of the Project

("the Project")

Name and address of the Principal

("the Principal")

Name and address of NoBo

("NoBo")

Name and address of the Adjudicator

("the Adjudicator")

Whereas the Principal, the Beneficiaries and NoBo have entered into an agreement ("the Contract") for the execution of the Project and wish to appoint the Adjudicator to act in accordance with the Rules for Adjudication ("the Rules"),

the Principal, NoBo and the Adjudicator agree as follows:

1. The Rules, General Conditions of the Dispute Adjudication Contract and the dispute resolution provisions of the Contract shall form part of this Dispute Adjudication Contract.
2. The Adjudicator shall be paid a fee for the dispute resolution services in the amount of [_____ (euro)], VAT inclusive, within sixty (60) days upon receipt of **the Adjudicator's invoice and the Adjudicator's decision as per Rule 21**. The fee shall be all-inclusive with respect to any expenses and reflects the total amount of all **Adjudicator's expenses required in order** to resolve a specific dispute between NoBo and the Principal.
3. The Adjudicator agrees to act as an adjudicator in accordance with the Rules for Adjudication and has disclosed to the Parties any previous or existing relationship with the Parties or other concern with the Project or other projects.
4. The laws of Latvia shall govern this Dispute Adjudication Contract.
5. The language of the Dispute Adjudication Contract shall be English.

Signed for and on behalf of the Principal:

..... Signature of Authorised Signatory

..... Full name of above (print)

..... Date of signing

Signed for and on behalf of NoBo:

..... Signature of Authorised Signatory

..... Full name of above (print)

..... Date of signing

Signed for and on behalf of the Adjudicator:

..... Signature of Adjudicator

..... Full name of above (print)

..... Date of signing

Annex 5

to the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification)

TECHNICAL SPECIFICATION

It is hereby certified that this Annex 5 (Technical Specification) includes a reference to the Technical Specification available under the Procurement documents with all of the attachments, inclusive parts and annexes which were submitted to NoBo within the Procurement exercise, and which is available and binding to the Parties in accordance with the applicable Laws.

Annex 6

to the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification)

NOBO'S TENDER

It is hereby certified that this Annex 6 (**NoBo's Tender**) includes a reference to **NoBo's Tender dated 6 March 2020 with a No RBR 2019/19** (dates and numbers of the application form of the partnership members) with all of the attachments, inclusive parts and annexes which were submitted to the Principal within the Procurement exercise, and which is available and binding to the Parties in accordance with the applicable Laws.

Annex 7

to the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification)

VERIFICATION PROGRAMME

It is hereby certified that this Annex 7 (Verification Programme) includes a reference to the Verification Programm which is submitted to the Principal by NoBo within the Procurement exercise, and which is available and binding to the Parties in accordance with the applicable Laws. For clarity, this Annex 7 (Verification Programme) does not directly refer to the Verification Programmme which shall be submitted by NoBo to the Principal as part of the Inception Report submission process.

Annex 8

to the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification)

FORM OF THE DEED ON COMMENCEMENT

[insert place and date of signing]

It is hereby certified that [insert full name and position title] of [insert full name of NoBo], duly delivered, and [insert full name and position title] accepted on behalf of the Principal the documents, as required under Clause 4 of the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification), **executed between RB Rail AS, AB "LIETUVOS GELEŽINKELIŲ INFRASTRUKTŪRA", RAIL BALTIC ESTONIA OÜ, sabiedrība ar ierobežotu atbildību "EIROPAS DZELZCEĻA LĪNIJAS"**, and [insert the full name of NoBo] on [insert the date of the Contract] (hereinafter the Contract):

1. Performance Bond, dated [insert date] and issued by [insert full name of the guarantor], number of pages [insert number of pages], in original hard copy;
2. Professional civil liability insurance policy, dated [insert date] and issued by [insert full name of the insurance company], number of pages [insert number of pages], in original hard copy;
3. [to be **supplement if necessary**]...

This Deed on Commencement is made in duplicate, one original for NoBo and one for the Principal.

For and on behalf of NoBo:
[insert full name and position title]

For and on behalf of the Principal:
[insert full name and position title]

signature

signature

Annex 9

to the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification)

ORDER FORM

[insert place and date of signing]

In accordance with the provisions of the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification), **executed between RB Rail AS, AB "LIETUVOS GELEŽINKELIŲ INFRASTRUKTŪRA", RAIL BALTIC ESTONIA OÜ, sabiedrība ar ierobežotu atbildību "EIROPAS DZELZCEĻA LĪNIJAS"**, and [insert the full name of NoBo] on [insert the date of the Contract] (hereinafter the Contract), the Principal hereby orders the following Verification services indicated below:

1. [Describe the Verification services]...

For and on behalf of the Principal:
[insert full name and position title]

signature

This is to certify that the Order has been received and accepted and that [insert the full name of NoBo] shall commence duly rendering the Principal the Verification services, specified in this Order, in compliance with the Contract.

[insert place and date of signing]

For and on behalf of [insert full name of NoBo]:
[insert full name and position title]

signature

**Appendix to Annex 9
REQUEST FOR SERVICES FORM**

to Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification)

REQUEST FOR SERVICES FORM*

[insert place and date of signing]

Note: Internal between the Principal & the Beneficiary only

In accordance with the provisions of the Framework Contract No 1.19/LV-30 on Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (Verification), **executed between RB Rail AS, AB "LIETUVOS GELEŽINKELIŲ INFRASTRUKTŪRA", RAIL BALTIC ESTONIA OÜ, sabiedrība ar ierobežotu atbildību "EIROPAS DZELZCEĻA LĪNIJAS"**, and [insert the full name of NoBo] on [insert the date of the Contract] (hereinafter the Contract), and specifically pursuant to Clause 7.5 thereof, the Beneficiary [insert full name of the relevant Beneficiary] hereby notifies of the need and requests the Principal to order the following Verification Services from NoBo as indicated below:

[Describe the Verification Services requested, including:

- (i) TSIs concerned;
- (ii) Contract(s) concerned;
- (iii) Stage(s) concerned;
- (iv) Object(s)/Structure(s) concerned;
- (v) Name, where relevant for H-type Modules of the designer(s) & Testing/V&V Body(ies), and where considered relevant by NoBo also of significant sub-suppliers;
- (vi) All relevant information for the Subsystem (type, definition identification, configuration, version, borders, interfaces);
- (vii) The Certificates and Technical Files, and in case of use of ISVs also Declarations of any preceding Modules or ISVs;
- (viii) The project breakdown structure and the name and address of each involved entity for design, type testing, production, final inspection/serial testing (to include all project related sites, main sub-suppliers, where this is not otherwise known to the NoBo: number of staff involved in the project at the sites (Note: several sites processing the identical Product are possible, these may apply the same QMS or different QMS);
- (ix) Generic QMS related documentation relevant for this product and as required by the Principal for NoBo services. In case of several QMS being related to the product, documentation related to all of them;
- (x) If applicable, scope of ISV;
- (xi) Declaration to 2010/713/EU which requires to declare that the same Application has not been lodged with any other NoBo;
- (xii) Verification Services suspension arrangements, if applicable, towards the specific Work Package;
- (xiii) Timelines for implementation.]

For and on behalf of the Beneficiary:
[insert full name and position (title)]

signature

REQUEST PROCESSING BY THE PRINCIPAL **

Reference to the Verification Programme & WP: [insert relevant details]

Project Owner Assigned: [insert relevant details]

Project Manager Assigned: [insert relevant details]

Reference to Principal's BL / GA: [insert relevant details]

Order to NoBo: [insert date of **Order's acceptance by NoBo**]

For and on behalf of the Principal:

[insert full name and position (title)]

signature

*To be completed by Beneficiary

**To be completed by Principal