

REGULATIONS

FOR THE PROCUREMENT

“GIS SUPPORT AND DEVELOPMENT SERVICES”

(IDENTIFICATION NO RBR 2020/16)



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

Riga 2020

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1. ABBREVIATIONS AND TERMS

- 1.1. **Common procurement vocabulary (CPV)** – a nomenclature approved by the European Union, which is applied in public procurement procedures;
- 1.2. **Contract** - signed agreement between Contracting authority and a Contractor to provide services defined in this agreement;
- 1.3. **Contracting authority** (also, the Contracting entity) - the joint stock company RB Rail AS, registration number 40103845025, legal address: Kr. Valdemāra iela 8-7, Riga, LV-1010, Latvia;
- 1.4. **Contractor** - service provider awarded the right to enter into the Contract in Procurement to provide services in accordance with requirements stipulated in Regulations and Contract;
- 1.5. **Identification number** – designation, which includes the abbreviation of the name of the Contracting authority (the first capital letters), the relevant year and the procurement sequence number in ascending order (RBR 2020/16);
- 1.6. **Procurement** - procurement “GIS support and development services” (identification number: RBR 2020/16) in which all interested Suppliers are entitled to submit their Proposals;
- 1.7. **Procurement commission** – commission which composition has been established by the joint stock company RB Rail AS, order No 1.9-18, dated 22 September 2020, issued by the Chairman of the Management Board of joint stock company RB Rail AS;
- 1.8. **Proposal** - documentation package the Tenderer submits to participate in the Procurement;
- 1.9. **Regulations** – regulations of the Procurement “GIS support and development services” (identification number: RBR 2020/16), as well as all the enclosed annexes;
- 1.10. **Supplier** – a natural person or a legal person, a group or association of such persons in any combination thereof, which offers to perform works, supply products or provide services accordingly;
- 1.11. **Tenderer** – a Supplier which has submitted a Proposal.

2. GENERAL INFORMATION

- 2.1. The Procurement is co-financed by the Contracting authority and Connecting Europe Facility (CEF).
- 2.2. The applicable CPV codes: 72260000-5 (Software-related services).
- 2.3. The Tenderer shall submit a Proposal for the entire volume of the Procurement.
- 2.4. The Tenderer is not permitted to submit variants of the Proposal. If variants of the Proposal will be submitted, the Proposal will not be reviewed.
- 2.5. Procurement is organised in accordance with Section 9 of the Public Procurement Law of the Republic of Latvia (hereinafter – Public Procurement Law) in effect on the date of publishing the contract notice. The estimated contract price shall not be equal to or exceed 42 000 EUR (forty-two thousand euros).
- 2.6. Procurement documentation is published using E-Tenders system which is subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EKEIS/Supplier>).
- 2.7. The Regulations is freely available in the Contracting authority's profile in the E-Tenders system on webpage <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001> and on the webpage of the Contracting authority <http://railbaltica.org/tenders/>.
- 2.8. Answers to the Suppliers' questions shall be published on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001> and on the Contracting authority's webpage <http://railbaltica.org/tenders/>. It is the Supplier's responsibility to constantly follow the information published on the webpages and to take it into consideration in preparation of its Proposal.

- 2.9. Contact person of the Contracting authority for Procurement is Procurement Specialist – Jānis Lukševics, phone: +371 29188156, e-mail address: janis.luksevics@railbaltica.org.
- 2.10. The exchange of information between the Procurement commission and the Supplier or Tenderer shall be in written form (by sending documents electronically to e-mail or using E-Tenders system) in English (if information is submitted in Latvian, it shall be accompanied by a translation into English).
- 2.11. If the Supplier does not have access to the E-Tenders system, the Supplier can follow the guidance for obtaining access to the system available on the Contracting authority's website at <http://www.railbaltica.org/procurement/e-procurement-system/>.
- 2.12. The Supplier can request additional information regarding the Regulations. Additional information can be requested in writing through the E-Tendering system or (only in case the Supplier does not have access to the system) by sending it to the Procurement commission electronically to the e-mail (see Section 2.9 of the Regulations). Any additional information must be requested in a timely fashion, so that the Procurement commission can reply on time - no later than 4 (four) days prior to the deadline of the Proposal submission. The Procurement commission shall provide response within 3 (three) business days from the day of receipt of the request from the Supplier.
- 2.13. The Supplier covers all expenses, which are related to the preparation of the Proposal and its submission to the Contracting authority. Under no circumstances Contracting authority will be liable for compensation of any costs and damages related to the preparation and submission of the Proposal or the Supplier's participation in the Procurement exercise.

3. THE RIGHTS OF THE PROCUREMENT COMMISSION

- 3.1. The Procurement commission has the right to demand at any stage of the Procurement that the Tenderer submits all or part of the documents which certify Tenderer's compliance to the requirements for the selection of the tenderers. The Procurement commission does not demand documents or information which is already at its disposal or is available in public data bases.
- 3.2. If the Tenderer submits document derivatives (e.g. copies), then, in case of doubt about the authenticity of the submitted document derivation, the Procurement commission can demand that the Tenderer presents to Procurement commission original documents.
- 3.3. During the Proposal evaluation, the Procurement commission has the right to request the Tenderer to clarify the information included in its Proposal.
- 3.4. If the Procurement commission determines that the information about the Tenderer or persons upon whose capacity the Tenderer is relying that is included in submitted documents is unclear or incomplete, it demands that the Tenderer or a competent institution clarifies the information included in the Proposal. The deadline for submission of the necessary information is determined in proportion to the time which is required to prepare and submit such information. If the Procurement commission has requested to clarify the submitted documents, but the Tenderer has not done this in accordance with the requirements stipulated by the Procurement commission, the Procurement commission is under no obligation to repeatedly demand that the information included in these documents be clarified. The Procurement commission has the right to reject all Proposals which are found not to comply with the requirements of the Procurement documentation.

4. THE OBLIGATIONS OF THE PROCUREMENT COMMISSION

- 4.1. The Procurement commission ensures the documentation of the Procurement process.
- 4.2. The Procurement commission ensures free and direct electronic access to the Procurement documents in Contracting authority's profile on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001> and on the webpage of the Contracting authority <http://railbaltica.org/tenders/>.

- 4.3. If an additional information has been requested according to Section 2.12 of the Regulations, Contracting authority sends this information to the Supplier who asked the question, publishes this information in Contracting authority's profile on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001> and on its webpage <http://railbaltica.org/tenders/> where Procurement documents are available, indicating the question asked.
- 4.4. The exchange and storage of information is carried out in such a way that all data included in the Proposals are protected and the Contracting authority can check the content of the Proposals only after the expiration of the deadline for their submission. From the day of submission of Proposals until the opening of the Proposals the Contracting authority does not disclose any information regarding the existence of other Proposals. During the time of Proposal evaluation, the Contracting authority does not disclose any information regarding the evaluation process until the announcement of the results.
- 4.5. The Procurement commission evaluates the Tenderers and their Proposals based on the Public Procurement Law, Procurement documents, as well as other applicable regulatory enactments.

5. THE RIGHTS OF THE TENDERER

- 5.1. The Tenderer has the right to submit Tenderer's Electronic Procurement System registration documents (if the Tenderer is not registered in Electronic Procurement System) in State Regional Development Agency (please see information here <http://www.railbaltica.org/procurement/e-procurement-system/>).
- 5.2. If the Contracting authority gets the necessary information about the Tenderer directly from a competent institution, through data bases or other sources and the Tenderer's submitted information differs from information obtained by the Contracting authority, the Tenderer in question has the right to submit evidence to prove the correctness of the information the Tenderer has submitted, if the information obtained by the Contracting authority does not conform to the factual situation.
- 5.3. If a Tenderer believes that its rights have been violated or such violation is possible due to possible violation of the regulatory enactments of the European Union or other regulatory enactments, the Tenderer has the right to submit an application to the Administrative court according to the procedure stipulated in the Section 9, Paragraph 23 of the Public Procurement Law and Administrative Procedure Law of the Republic of Latvia regarding the Tenderer selection requirements, Technical specification or other requirements relating to Procurement, or relating to the activities by the Contracting authority or the Procurement commission during the Procurement.

6. SUBJECT-MATTER OF THE PROCUREMENT

- 6.1. The subject-matter of the Procurement is GIS (*Geographical Information System*) support and development services (hereinafter – Services) according to Technical specification (Annex No 1).
- 6.2. The delivery of the Services will take place in Estonia, Latvia and Lithuania.
- 6.3. Period of provision of Services is 12 months after conclusion of the Contract.
- 6.4. Total contract price (defined by Contracting authority) shall not exceed 41 000,00 without VAT.

7. TENDERER

- 7.1. The Proposal can be submitted by:
 - 7.1.1. A Supplier who is a legal or natural person (hereinafter – the Tenderer) which offers on the market to perform works, supply products or provide services accordingly and who complies with the selection criteria for Tenderers;

7.1.2. A group of Suppliers (hereinafter also – the Tenderer, partnership) which offer on the market to perform works, supply products or provide services accordingly and who complies with the selection criteria for Tenderers:

7.1.2.1. A group of Suppliers who have formed a partnership for Procurement. In this case all the members of the partnership shall be listed in Annex No 2 “Application for participating in the Procurement”. If it will be decided to award contracting rights to such partnership, then prior to concluding the Contract the partnership shall at its discretion either enter into a partnership agreement (within the meaning of Latvian Civil Law Sections 2241-2280) and shall submit one copy of this agreement to the Contracting authority or establish a general or limited partnership (within the meaning of Latvian Commercial Law, Chapter IX and X) and notify the Contracting authority in writing;

7.1.2.2. An established and registered partnership (a general partnership or a limited partnership within the meaning of Latvian Commercial Law, Chapter IX and X) which complies with the selection criteria for Tenderers.

8. SELECTION CRITERIA FOR TENDERERS

8.1. Exclusion grounds

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

No	Requirement	Documents to be submitted (unless documents are specifically requested by the Procurement commission, no obligation to submit any)
8.1.1.	It has been detected that on the last day of Proposal submission term or on the day when a decision has been made on possible granting of rights to conclude the Procurement Contract, the Tenderer has tax debts in Latvia or a country where it has been incorporated or is permanently residing, including debts of mandatory state social insurance contributions, exceeding 150 euro in total in any of the countries.	<ul style="list-style-type: none"> - For a Tenderer which is registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases. - For a Tenderer which is registered or residing outside of Latvia the Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence.
8.1.2.	Tenderer's insolvency proceedings have been announced (except where a set of measures aimed at restoring the solvency of the debtor is applied in the insolvency proceedings), the Tenderer's business activities have been suspended, the Tenderer is under liquidation.	<ul style="list-style-type: none"> - For a Tenderer which is registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases. - For a Tenderer which is registered or residing outside of Latvia, the Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence.
8.1.3.	In case a person who drafted the Procurement procedure documents (Contracting authority's official or employee), Procurement commission member or expert is related to the	No obligation to submit documents, unless specifically requested by the Procurement commission.

No	Requirement	Documents to be submitted (unless documents are specifically requested by the Procurement commission, no obligation to submit any)
	<p>Tenderer, or is interested in selection of some Tenderer, and the Contracting authority cannot prevent/resolve this situation by measures that cause less restrictions on Tenderers (such a Tenderer shall be excluded from the Procurement). A person who drafted the Procurement documents (Contracting authority's official or employee), Procurement commission member or expert is presumed to be related to the Tenderer in any of the following cases:</p> <ul style="list-style-type: none"> - If he or she is a current or and ex-employee, official, shareholder, procura holder or member of a Tenderer or a subcontractor which are legal persons and if such relationship with the legal person terminated within the last 24 (twenty-four) months; - If he or she is the father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-brother, half-sister or spouse (hereinafter – relative) of a Tenderer's or subcontractor's, which is a legal person, shareholder who owns at least 10% of the shares in a joint-stock company, shareholder in a limited liability company, procure holder or an official; - or if he or she is a relative of a Tenderer or a subcontractor which is a natural person. <p>If the Tenderer is a partnership, consisting of natural or legal persons, a relation to the Tenderer is presumed also if a person who drafted the Procurement documents (Contracting authority's official or employee), Procurement commission member or expert is related to a member of a partnership in any of the above-mentioned ways.</p>	
8.1.4.	The Tenderer is a legal person or association of persons registered in an offshore ¹ .	<ul style="list-style-type: none"> - For a Tenderer which is registered in Latvia, the Contracting authority shall verify the information itself by using the information system laid down by the Cabinet of Ministers, obtaining information from the Enterprise register.

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

No	Requirement	Documents to be submitted (unless documents are specifically requested by the Procurement commission, no obligation to submit any)
		<ul style="list-style-type: none"> - For a Tenderer which is registered outside of Latvia, the Tenderer shall submit a copy of a valid registration certificate or a similar document issued by a competent authority, wherefrom at least the fact of registration country of the Tenderer can be determined.
8.1.5.	<p>International or national sanctions, or sanctions of a Member State of the European Union or North Atlantic Treaty Organisation affecting the interests of the financial and capital market has been imposed to the</p> <p>a) Tenderer or a member of its board or council, its beneficial owner², a person having the right of representation or proctor, or a person who is authorised to represent the Tenderer in activities related to a branch, or</p> <p>b) member of a partnership, or member of the board or council, its beneficial owner, a person having the right of representation or proctor, if the Tenderer is a partnership</p> <p>and such sanctions can affect the execution of the Contract.</p>	No obligation to submit documents, unless specifically requested by the Procurement commission.

8.2. Legal standing and suitability to pursue the professional activity

No	Requirement	Documents to be submitted
8.2.1.	<p>The Tenderer (including persons on whose capacity the Tenderer is relying) or all members of the partnership (if the Tenderer is a partnership) must be registered in the Registry of Enterprises or Registry of Inhabitants, or an equivalent register in their country of residence, if the legislation of the respective country requires registration of natural or legal persons.</p>	<ul style="list-style-type: none"> - For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, which is a legal person registered in Latvia, the Contracting authority shall verify the information itself in publicly available databases. - For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, which is a natural person – a copy of an identification card or passport. - For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, which is a legal person registered abroad (with its permanent place of residence abroad) – a copy of a

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

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

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

No	Requirement	Documents to be submitted
		<p>valid registration certificate or a similar document issued by a foreign authority in charge of the registration of legal persons in the country of their residence wherefrom at least the fact of registration, shareholders, officials and procura holders (if any) can be determined.</p> <ul style="list-style-type: none"> - If a Proposal is submitted by a partnership, the Proposal shall include an agreement (or letter of intent to enter into agreement) signed by all members on the participation in the Procurement which lists responsibilities of each and every partnership members and which authorizes one key member to sign the Proposal and other documents, to receive and issue orders on behalf of the partnership members, and with whom all payments will be made. The Tenderer additionally indicates (in this document) the member of the partnership on whose capacity it relies to certify its financial and economic performance and who will be financially and economically responsible for the fulfilment of the Contract. - If the Proposal or any other document, including any agreement, is not signed by the legal representative of the Tenderer, members of the partnership or person on whose capacity the Tenderer relies, then a document certifying the rights of the persons who have signed the Proposal or any other documents to represent the Tenderer, a member of the partnership or a person on whose capacity the Tenderer is relying (powers of attorney, authorization agreements etc.) must be included.
8.2.2.	<p>Agreement according to Paragraph 36.1 of Cabinet Regulation No 442 <i>"Procedures for the Ensuring Conformity of Information and Communication Technologies Systems to Minimum Security Requirements"</i> may be entered into with a Tenderer (including persons on whose capacity the Tenderer is relying and subcontractors) or all members of the partnership (if the Tenderer is a partnership) who is:</p> <p>1) a legal person –</p> <p>a) registered in a Member State to the NATO, European Union or European Economic Area;</p>	<ul style="list-style-type: none"> - No obligation to submit documents, unless specifically requested by the Procurement commission. - Procurement commission during verification process may involve Latvian State Security Service. Procurement commission is entitled not apply requirements stipulated in Paragraph 36.1 of Cabinet Regulation No 442 if statement from Latvian State Security Service with permission to conclude the contract has been received.

No	Requirement	Documents to be submitted
	<p>b) whose beneficial owner is a citizen of NATO, European Union, European Economic Area or non – citizen of the Republic of Latvia;</p> <p>c) whose software or equipment manufacturer used to provide the services is a legal person registered in a Member State of NATO, European Union or European Economic Area or a natural person who is a citizen of the Republic of Latvia, NATO, European Union or European Economic Area State.</p> <p>2) a natural person who is a national of the Republic of Latvia, a citizen of the State to the NATO, European Union or European Economic Area.</p>	
8.2.3.	<p>The representative of the Tenderer, or a member of a partnership, or a person on whose capacity a Tenderer relies who has signed documents contained in the Proposal has the right of signature, i.e., it is an official having the right of signature or a person authorized by the Tenderer.</p>	<ul style="list-style-type: none"> - A document confirming the right of signature (representation) of the representative of the Tenderer or a member of a partnership, or a person on whose capacity a Tenderer relies, who signs the Proposal. For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, which is a legal person registered in Latvia the Contracting authority shall verify the information itself in publicly available databases. - If the Tenderer (or a member of a partnership), or a person on whose capacity a Tenderer relies, submits a power of attorney (original or a copy certified by the Tenderer) there shall be additionally submitted documents confirming that the issuer of the power of attorney has the right of signature (representation) of the Tenderer.

8.3. Technical and professional ability

No	Requirement	Documents to be submitted
8.3.1.	<p>The Tenderer must be a manufacturer of ArcGIS software or a authorized partner of the manufacturer or authorized distributor with the rights to provide ArcGIS software support services.</p>	<ul style="list-style-type: none"> - Copy of certificate/ authorization agreement or other documents.

No	Requirement	Documents to be submitted
8.3.2.	<p>The tenderer within the previous 5 (five) years (2015 - 2019) and 2020 till the submission deadline for the proposals has obtained the following experience:</p> <p>completed at least 1 (one) geographic information system (GIS) creation or modernization, or development services contract or project, where GIS database creation/ configuration services or implementation or configuration of WEB and Mobile applications for GIS data management, view, creation were provided and the total value of services provided within the contract or project were not less than 40 000,00 EUR without VAT.</p>	<ul style="list-style-type: none"> - Filled and signed Annex No 3 supplemented with a certificate or reference letter from the recipients (clients) stating the services provided and scope or an equivalent document.
8.3.3.	<p>The Tenderer should propose a team consisting of the following key experts. Experts cannot serve several roles:</p>	
8.3.3.1	<p>Project manager – experienced in GIS application projects management who complies with the following requirements:</p> <ul style="list-style-type: none"> a) practical experience in leading and supervising at least 2 (two) projects/ or contracts related to the GIS application projects using GIS development technologies – each project/ contract completed over the past 5 (five) years (2015-2019), including 2020 until the date of submission of the Proposal; b) Very good (at least B2 Level) verbal, written and presentation English language skills – (based on Common European Framework of Reference for Languages³) in communication, presentation, negotiation and report writing, particularly in the specific areas of his expertise. 	<ul style="list-style-type: none"> - Filled and signed Annex No 4;
8.3.3.2	<p>GIS Technology Expert – experienced in GIS system development using ArcGIS technologies who complies with the following requirements:</p> <ul style="list-style-type: none"> a) Very good (at least B2 Level) verbal, written and presentation English language skills – (based on Common European Framework of Reference for Languages⁴) in communication, 	<ul style="list-style-type: none"> - Proof of ArcGIS technology expert qualification shall be provided by Esri Enterprise Geodata Management Professional or Esri Enterprise Administration Professional, or Certified GIS Professional (GISP) certificates (copies) or other equivalent documents (i.e., an exam must be passed to obtain the appropriate qualification);

³ Refer to <http://europass.cedefop.europa.eu/resources/european-language-levels-cefr>.

⁴ Refer to <http://europass.cedefop.europa.eu/resources/european-language-levels-cefr>.

No	Requirement	Documents to be submitted
	<p>presentation, negotiation and report writing, particularly in the specific areas of his expertise.</p> <p>b) has an approved (qualification test performed by ArcGIS manufacturer or authorized partner/ distributor) qualification in GIS technology using ArcGIS software tools;</p> <p>c) previous experience in at least 3 (three) projects related to the development of technical specifications for the development and modernization of information system based on ArcGIS tools - each project/ contract completed over the past 5 (five) years (2015-2019), including 2020 until the date of submission of the Proposal.</p>	- Filled and signed Annex 4

- 8.4. Information provided in the Proposal to prove the compliance with above-mentioned requirements for Technical and professional ability (Section 8.3 of the Regulations) shall be clear and understandable without any additional analysis or external proof of the submitted information. The Contracting authority shall not be obliged to use additional sources of information to decide regarding Tenderer's compliance with the qualification requirements. The Tenderer shall remain fully responsible for the provision of sufficiently detailed information in the Proposal required to confirm clearly the compliance with qualification requirements set in the Regulations.
- 8.5. Statements and other documents issued by Latvian competent authorities in the cases referred to in Public Procurement Law of the Republic of Latvia shall be accepted and recognised by the Procurement Commission if they have been issued not earlier than one month prior to the day of submission, but the statements and other documents issued by foreign competent authorities shall be accepted and recognised by the Procurement Commission if they have been issued not earlier than six months prior to the day of submission, unless the issuer of the statement or the document has specified a shorter term of validity thereof.
- 8.6. If the documents with which a Tenderer registered or permanently residing abroad can certify its compliance with the requirements of Section 8.1 of the Regulations are not issued or these documents are insufficient, such documents can be replaced with an oath or; if the regulatory enactments of the country in question do not allow for an oath, - with a certification by the Tenderer or by another person mentioned in Section 8.1 of the Regulations before a competent executive governmental or judicial institution, a sworn notary or a competent organization of a corresponding industry in their country of registration (permanent residence). Regarding all documents submitted based on an oath given under law (e.g. sworn-statements, declarations on oath etc.), the Tenderer must provide (indicate) legal grounds to law or enactment in accordance with such statements or declarations on oath have been given.

9. RELIANCE ON THE CAPACITY OF OTHER PERSONS

- 9.1. For the fulfilment of the Contract, to comply with the selection requirements for the Tenderers relating to the economic and financial standing and technical and professional capacity, the Tenderer may rely on the capacity of other persons, regardless of the legal nature of their mutual relationship. In this case:
- 9.1.1. The Tenderer indicates in the Proposal all persons on whose capacity it relies by filling in the table which is attached as Annex No 5 "Subcontractors" and other entities on

whose capabilities the Tenderer is relying” and proves to the Contracting authority that the Tenderer will have available all the necessary resources for the fulfilment of the Contract by submitting a signed confirmation or agreement on cooperation and/or passing of resources to the Tenderer between such persons and the Tenderer. The confirmations and agreements on cooperation and passing of resources can be replaced by the Tenderer with any other type of documents with which the Tenderer is able to prove that the necessary resources will be available to the Tenderer and will be used during the term of fulfilment of the Contract.

9.1.2. Documents on cooperation and passing of resources must be sufficient to prove to the Contracting authority that the Tenderer will have the ability to fulfil the Contract, as well as that during the validity of the Contract the Tenderer will in fact use the resources of such person upon whose capacity the Tenderer relies.

9.1.3. The Contracting authority shall require joint and several liabilities for the execution of the Contract between the:

9.1.3.1. Tenderer and a person on whose capacity the Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract;

9.1.3.2. Each member of the partnership (if the Tenderer is a partnership) on whose capacity the Tenderer is relying and who will be financially and economically responsible for fulfilment of the Contract.

9.2. The Contracting authority shall evaluate the person on whose capacity the Tenderer to whom the rights to conclude the Contract should be assigned is relying according to Section 8.1.1 - 8.1.3 of the Regulations.

10. SUBCONTRACTING

10.1. The Tenderer shall indicate in the Proposal all subcontractors of the Tenderer by filling in the table which is attached as Annex No 5.

11. FINANCIAL PROPOSAL

11.1. The Financial proposal shall be submitted as a part of Annex No 2 (Application).

11.2. The proposed hourly rate shall include all taxes, fees and payments, and all costs related to the fulfilment of the specific services, that can be reasonably estimated, except VAT.

11.3. The hourly rate shall be specified in EUR per hour.

11.4. The costs must be calculated and indicated with an accuracy of 2 (two) decimal places after comma. If more than 2 (two) decimal places after comma will be indicated, then only the first two decimal places will be considered.

12. CONTENTS AND FORM OF THE PROPOSAL

12.1. Proposal must be submitted electronically on E-Tenders subsystem of the Electronic Procurement System in accordance with the following options for the Tenderer:

12.1.1. by using the available tools of E-Tenders subsystem, filling the attached forms of the E-Tenders subsystem for Procurement;

12.1.2. by preparing and filling the necessary electronic documents outside the E-Tenders subsystem and attaching them to relevant requirements (in this situation the Tenderer takes responsibility for the correctness and compliance of the forms to requirements of documentation and form samples);

12.1.3. by encrypting electronically prepared Proposal outside of E-Tenders subsystem with data protection tools provided by third parties, and protection with electronic key and password (in this situation, Tenderer takes responsibility for the correctness and

compliance of the forms to requirements of documentation and form samples as well as ensuring capability to open and read the document by the Contracting authority).

12.2. During preparation of the Proposal, Tenderer shall respect the following requirements:

12.2.1. Each document mentioned in Section 12.3 of the Regulations must be filled separately, each in a separate electronic document in line with forms attached to Procurement on Contracting authority's profile in E-Tenders subsystem (<https://www.eis.gov.lv/EKEIS/Supplier/Procurement/45938>) in a Microsoft Office 2010 (or later) format and attached to the Procurement;

12.2.2. Upon submission, the Tenderer signs the Proposal with a secure electronic signature and a time seal or with electronic signature provided by Electronic Procurement System. The Tenderer can use a certified electronic signature⁵ and valid time seal and sign Application form, Description of the Tenderer's experience, Technical proposal, Financial proposal and other documents separately. The Proposal (its parts, if signed separately) is signed by an authorised person, including its authorisation document (e.g. power of attorney) *expressis verbis* stating the authorisations to sign, submit and otherwise manage the documents.

12.3. Documents to be included in the Proposal:

12.3.1. Application for participation in the Procurement (including Financial proposal) in accordance with Annex No 2;

12.3.2. Information and documents confirming compliance of the Tenderer with the selection criteria for the Tenderers (set in Section 8 of the Regulations);

12.3.3. Information and documents relating to subcontractors and other entities on whose capacity the Tenderer is relying (in accordance with Annex No 5).

12.4. The Proposal may contain original documents or their derivatives (e.g. copies). In the Proposal or in reply to a request of the Procurement commission Tenderer shall submit only such original documents which have legal force. For the document to gain legal force it must be issued and formatted in accordance with the Law on Legal Force of Documents of the Republic of Latvia (<https://likumi.lv/ta/en/id/210205-law-on-legal-force-of-documents>) but public documents issued abroad shall be formatted and legalized in accordance with the requirements of the Document Legalization Law of the Republic of Latvia (<https://likumi.lv/ta/en/en/id/155411-document-legalisation-law>). Public documents issued abroad can be self-approved by the Tenderer, if it is applicable by the legislation of the respective country. When submitting the Proposal, the Tenderer has the right to certify the correctness of all submitted documents' derivatives and translations with one certification.

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

12.6. The Tenderer shall prepare Proposal in electronic form using the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/45938>.

13. ENCRYPTION OF THE PROPOSAL INFORMATION

13.1. E-Tenders system which is a subsystem of the Electronic Procurement System ensures first level encryption of the information provided in the Proposal documents.

13.2. If the Tenderer applied additional encryption to the information in the Proposal (according to Section 12.1.3 of the Regulations), Tenderer must provide the Procurement commission with the electronic key with the password to unlock the information not later than in 15 (fifteen) minutes after the deadline of the Proposal submission.

⁵ Issued by organisation, which is included in the Trusted list according to the Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

14. SUBMISSION OF THE PROPOSAL

- 14.1. The Proposal (documents referred to in the Section 12.3 of the Regulations) shall be submitted electronically using the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier/ProcurementProposals/45938> by:

19 October 2020 till 15:00 o'clock.

- 14.2. The Tenderer may recall or amend its submitted Proposal before the expiry of the deadline for the submission of Proposals by using the E-Tenders system.
- 14.3. Only Proposals submitted through E-Tenders system will be accepted and evaluated for participation in the Procurement. Any Proposal submitted outside the E-Tenders system will be declared as submitted in a non-compliant manner and will not participate in the Procurement.

15. VERIFICATION OF PROPOSALS FOR COMPLIANCE

- 15.1. The Procurement commission shall proceed with the verification of compliance of Proposals received.
- 15.2. The Procurement commission verifies whether the submitted Proposals comply with the requirements stipulated in Section 12 of the Regulations and whether all required information and documents are submitted and selects for further evaluation the compliant Proposals.
- 15.3. The Procurement commission verifies whether the Tenderers comply with the selection criteria (Section 8.2. – 8.3) for the Tenders and selects compliant Tenderers for further evaluation.
- 15.4. The Procurement commission opens and evaluates the Proposals in a closed session. Procurement commission is entitled to perform evaluation of the compliance only for the Tenderer to whom the rights to conclude the Contract may be assigned according to contract award criteria.

16. VERIFICATION OF FINANCIAL PROPOSALS

- 16.1. The Procurement commission verifies whether Tenderers have completed Annex No 2 "Application" in accordance with the requirements.
- 16.2. The Procurement commission verifies whether an abnormally low Proposal has been received, as well as assesses and compares the contract prices proposed.
- 16.3. The Procurement commission has the right to demand that the Tenderer explains the calculation upon which the Financial proposal is based and other related aspects to ascertain the objectivity of the Financial proposal and whether an abnormally low Proposal has been submitted.
- 16.4. The Procurement commission further evaluates the compliant Proposals which have not been declared as abnormally low Proposals.

17. CONTRACT AWARD CRITERIA

- 17.1. The Proposal selection criterion is the most economically advantageous proposal according to the evaluation methodology described in this Section below.
- 17.2. The economically most advantageous proposal in the Procurement shall be Proposal with the lowest proposed hourly rate EUR without VAT (the only evaluation criterion), which complies with the requirements stipulated by the Regulations.
- 17.3. The Procurement commission shall determine a Tenderer in accordance with Section 18.2 of the Regulations and the Contract shall be awarded to the Tenderer with lowest proposed hourly rate.

- 17.4. In case several Tenderers will propose equal hourly rate, Procurement commission will invite representatives of those particular Tenderers and organize a draw. In situation, when representatives of Tenderers choose to not be present at the draw, Procurement commission will carry out the draw without representatives of Tenderers present by inviting impartial participant from the Contracting authority.

18. TENDERER CHECK PRIOR TO MAKING THE DECISION REGARDING THE CONCLUSION OF THE CONTRACT

- 18.1. Prior to making the decision about assigning rights to conclude the Contract, the Procurement commission performs a check regarding:
- 18.1.1. the existence of exclusion grounds for Tenderers, members of a partnership (if the Tenderer is a partnership) and persons on whose capacity the Tenderer is relying to certify its compliance with the requirements;
 - 18.1.2. compliance with qualification requirements stipulated in Section 8.2.2.
- 18.2. If in accordance with the information published on the day of the last data update in a public database on the last day of Proposal submission or on the day when the decision regarding the possible assignment of rights to conclude a Contract is made, the Tenderer, member of a partnership (if the Tenderer is a partnership) or a person on whose capacity the Tenderer is relying to certify its compliance with the requirements, have tax debts, including state mandatory insurance contributions debts, the total sum of which exceeds 150 euro, the Procurement commission informs the Tenderer and sets a deadline – 10 (ten) days from the day of issuing or receiving information – for the submission of a statement evidencing absence of tax debt, including state mandatory insurance contributions debts, the total sum of which exceeds 150 euro, on the last day of Proposal submission or on the day when the decision regarding the possible assignment of rights to conclude a Contract was made.
- 18.3. If the Tenderer fails to submit required evidence about itself before the deadline, the Procurement commission excludes the Tenderer from participation in the Procurement.
- 18.4. If the Procurement commission finds that the Tenderer, to whom the rights to enter into the contract shall be assigned, doesn't meet qualification requirements stipulated in Section 8.2.2. of Regulation, it shall ask Latvian State Security Service to provide statement with permission to enter into the contract with particular Tenderer. If the statement issued by Latvian State Security Service is negative (with prohibition to enter into the contract), Procurement commission excludes the Tenderer from further evaluation and according to Section 8 of Regulation selects the next economically most advantageous proposal and the Tenderer to whom the rights to enter into the contract shall be assigned and performs assessment according to Section 19 of Regulation.

19. DECISION MAKING, ANNOUNCEMENT OF RESULTS AND ENTERING INTO A CONTRACT

- 19.1. The Procurement commission selects the Tenderers in accordance with the set selection criteria for the Tenderers, verifies the compliance of the Proposals with the requirements stipulated in the Regulations and chooses the Proposal in accordance with the contract award criteria as described in Section 18 of the Regulations. Tenderer with the lowest price Proposal shall be selected.
- 19.2. Within 3 (three) business days from the date of decision about the Procurement results the Procurement commission informs all Tenderers about the decision made by sending the information by post or electronically (including through the E-Tenders system) and keeping the evidence of the date and means of sending the information. The Procurement commission announces the name of the successful Tenderer, indicating:
- 19.2.1. to the rejected Tenderer - the reasons for rejecting its Proposal;

- 19.2.2.to the Tenderer who has submitted an eligible Proposal - the characterization of the successful Proposal and the relative advantages;
- 19.2.3.the deadline by which the Tenderer may submit an application to the Administrative court regarding violations of the public procurement procedure.
- 19.3. If the Procurement is terminated, the Procurement commission within 3 (three) business days simultaneously informs all Tenderers about the date of decision, all the reasons because of which the Procurement is terminated and informs about the deadline within which a Tenderer may apply to the Administrative court regarding the violations of the public procurement procedure.
- 19.4. The Procurement commission when informing for the results has the right not to disclose specific/confidential information, if it may infringe upon public interests or if the Tenderer's legal commercial interests, or the conditions of competition would be violated.
- 19.5. The selected Tenderer upon receiving the specific notification from Procurement commission must:
- 19.5.1.within 5 (five) business days – to submit to the Contracting authority a copy of partnership agreement or notification regarding the establishment of the partnership, if required pursuant to requirements under Section 7.1.2.1 of the Regulations;
- 19.5.2.within 10 (ten) days – to sign the Contract.
- 19.6. The Contract shall be concluded based on the Tenderer's Proposal and in accordance with Annex No 6 "Draft contract".
- 19.7. The Procurement commission has the right to choose the next most economically advantageous Proposal, if the Tenderer in the time stipulated by the Regulations:
- 19.7.1.refuses to conclude a partnership contract or establish the partnership in the cases and deadlines defined by the Regulations or in the cases and deadlines defined by the Regulations does not submit a copy of the partnership contract, or does not inform of the founding of a partnership company;
- 19.7.2.refuses to conclude the Contract or does not submit signed Contract within the deadlines defined in the Regulations.
- 19.8. In any of such a case mentioned in Section 19.7 of the Regulations the Procurement commission is entitled to terminate this Procurement without selecting any Proposal or to select the Proposal with the next lowest proposed contract price. For either of these decisions a written decision must be made.
- 19.9. Prior to making the decision regarding the conclusion of the Contract with the next Tenderer, the Procurement commission assesses whether the next Tenderer is one market participant together with the initially selected Tenderer. If the next selected Tenderer is found to be one market participant together with the initially selected Tenderer or it does not comply with requirements set in the Section 19.5 of the Regulations, the Procurement commission decides to terminate the Procurement without selecting any Proposal.

ANNEXES:

1. Technical specification;
2. Application for participation in the Procurement (including Financial proposal);
3. Description of the Tenderer's experience (form);
4. Description of the expert's previous experience (form);
5. Subcontractors and other entities on whose capabilities the tenderer is relying;
6. Draft contract.

Procurement commission chairman

J.Lukševics

TECHNICAL SPECIFICATION FOR THE PROCUREMENT
"GIS support and development services"
(ID NO. RBR 2020/16)



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

Riga
2020

1. INTRODUCTION TO RAIL BALTICA

The Baltic countries Estonia, Latvia and Lithuania have historically been linked to the east-west railway transport axis using the 1520mm gauge railway system. Because of the existing historical and technical constraints, the existing rail system is incompatible with mainland European standards, thus there is a consensus that Estonia, Latvia and Lithuania need to be fully integrated into the wider European rail transport system. Currently there is no efficient 1435 mm railway connection along the Warsaw-Kaunas-Riga-Tallinn axis, i.e. there are missing links or significant bottlenecks. Thus, there are no direct passenger or freight services along the railway axis as the existing infrastructure does not allow for competitive services compared to alternative modes of transport. Thus, the clear majority of the North-South freight is being transported by road transport and the overall accessibility in the region is low.

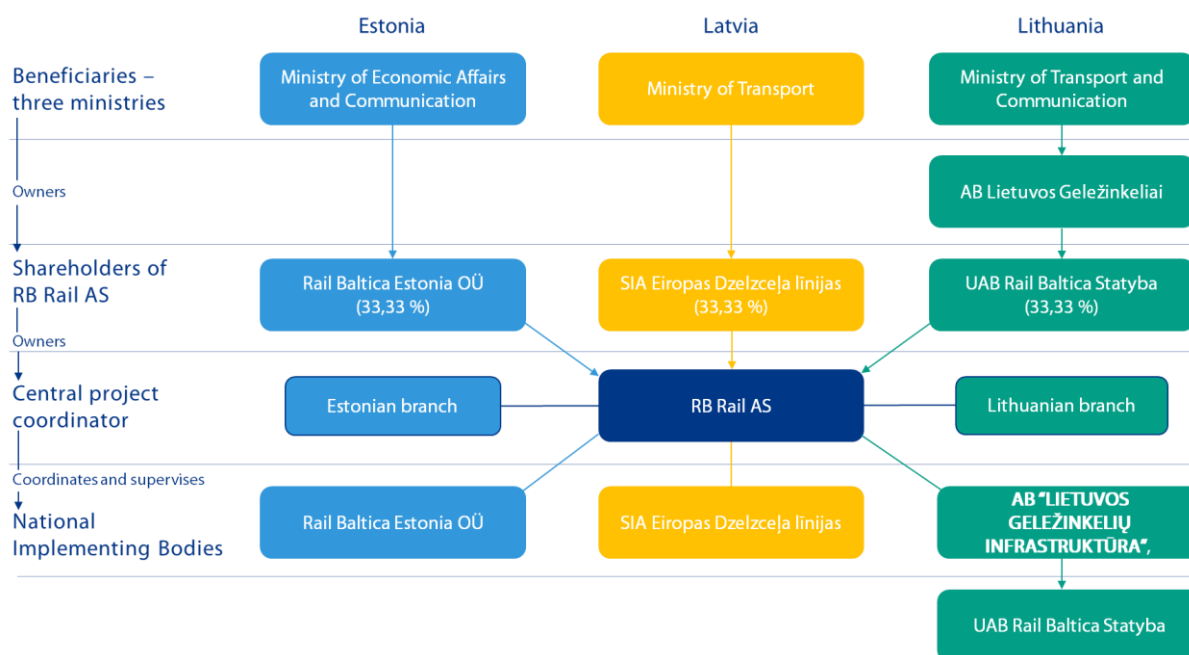
The ambitions of the Rail Baltica Global project (Global Project) are:

- to become a powerful catalyst for sustainable economic growth in the Baltic States;
- to set a new standard of passenger and freight mobility;
- to ensure a new economic corridor will emerge;
- sustainable employment and educational opportunities;
- an environmentally sustainable infrastructure;
- new opportunities for multimodal freight logistics development;
- new intermodal transport solutions for passengers;
- safety and performance improvements;
- a new value platform for digitalization and innovation;
- completion of Baltic integration in the European Union transport ecosystem.

Rail Baltica is already designed to become a part of the EU TEN-T North Sea – Baltic Core Network Corridor, which links Europe's largest ports of Rotterdam, Hamburg and Antwerp – through the Netherlands, Belgium, Germany and Poland – with the three Baltic States, further connecting to Finland via the Gulf of Finland short sea shipping connections with a future fixed link possibility between Tallinn and Helsinki. Further northbound extension of this corridor shall pave the way for future connectivity also with the emerging Arctic corridor, especially in light of the lucrative prospects of the alternative Northern Circle maritime route development between Europe and Asia. Furthermore, the North Sea – Baltic Corridor crosses with the Baltic-Adriatic Corridor in Warsaw, paving the way for new supply chain development between the Baltic and Adriatic seas, connecting the Baltics with the hitherto inadequately accessible Southern European markets. In a similar fashion, Rail Baltica shall strengthen the synergies between North-South and West-East freight flows, creating new trans-shipment and logistics development opportunities along the Europe and Asia overland trade routes. The new Rail Baltica infrastructure would, therefore, not only put the Baltics firmly on the European rail logistics map, but also create massive opportunities for value creation along this infrastructure with such secondary economic benefits as commercial property development, revitalization of dilapidated urban areas, private spin-off investment, new business formation, technology transfer and innovation, tourism development and other catalytic effects. Rail Baltica aims to promote these effects from the early stages of the Global Project, learning from the key global success stories and benchmarks in this regard.

The Contracting authority RB Rail AS (RBR) was established by the Republics of Estonia, Latvia and Lithuania, via state-owned holding companies, to coordinate the development and construction of the fast-conventional standard gauge railway line on the North Sea – Baltic TEN-T Core Network Corridor (Rail Baltica II) linking three Baltic states with Poland and the rest of the EU.

The diagram below illustrates the shareholder and project governance structure of the Rail Baltica project.



RBR together with governments of Estonia, Latvia and Lithuania (represented by the ministries in charge of transport policy) have applied for the CEF co-financing in 2015, 2016 and 2017 (three applications in total). The applications were successful and INEA grants are available to support the Global Project expenses.

Rail Baltica is a joint project of three EU Member States – Estonia, Latvia and Lithuania – and concerns the building of a fast conventional double-track 1435 mm gauge electrified and ERTMS equipped mixed use railway line on the route from Tallinn through Pärnu (EE), Riga (LV), Panevėžys (LT), Kaunas (LT) to the Lithuania/Poland state border (including a Kaunas – Vilnius spur) with a design speed of 240km/h. In the longer term, the railway line could potentially be extended to include a fixed link between Helsinki and Tallinn, as well as integrate the railway link to Warsaw and beyond.

The expected core outcome of the Rail Baltica Global Project is a European gauge (1435mm) double-track railway line of almost 900 km in length meant for both passenger and freight transport and the required additional infrastructure (to ensure full operability of the railway). It will be interoperable with the TEN-T Network in the rest of Europe and competitive in terms of quality with other modes of transport in the region. The indicative timeline and phasing of the project implementation can be found here: <http://www.railbaltica.org/about-rail-baltica/project-timeline/>.

2. OBJECTIVE AND GENERAL DESCRIPTION OF THE SERVICES TO BE PROVIDED BY THE CONSULTANT

2.1. Through the open public tender procedure RB Rail AS (the Company) seeks to procure the GIS support and development services (the Services) for GIS installation, development, integration, maintenance and consultancy services (including implementation of asset register) in ArcGIS environment. Additional development may include also connection development between ArcGIS solution and other software solutions.

2.2. Description of services

2.2.1. The Consultant shall guide RB Rail AS through the ESRI ArcGIS Environment (ArcGIS Enterprise, ArcGIS databases, ArcGIS Pro etc.) installation, configuration, maintenance and upgrading process, including development and maintenance of database for asset register for the entire Rail Baltica line.

- 2.2.2. The Consultant shall assist on the development and implementation of RB Rail AS GIS policy e.g. Users Management Strategy, Data Management Strategy, etc.
- 2.2.3. Advice on configuring ArcGIS environment (incl. Database) to maintain asset register for the entire Rail Baltica line
- 2.2.4. The Consultant shall provide the requested support for various GIS projects in all Rail Baltica project countries (Estonia, Latvia, Lithuania);
- 2.2.5. The Consultant shall provide training/training materials to the RB Rail AS (also Beneficiaries and National Implementing Bodies of Rail Baltica Project if the necessity will occur) employees if the Contracting authority or the Consultant consider it necessary for the successful implementation of the GIS;
- 2.2.6. The Consultant shall assist and RB Rail AS in preparing specifications related to the collection of data required for GIS;
- 2.2.7. The Consultant shall provide assistance and advice on data collection from various local data storage authorities in all three Baltic States considering specifics of each county legislation and availability of data sources to be integrated into Rail Baltica GIS.
- 2.2.8. The Consultant shall advise and develop (from ArcGIS side) connections for and on data exchange with other systems, e.g. Bentley (ProjectWise), Primavera P6, Microsoft SharePoint, Autodesk (AutoCAD, Revit, Civil 3D, BIM 360, Navisworks, etc.) etc.;
- 2.2.9. The Consultant shall assist and advise on developing a detailed strategy of laserscanning/photogrammetry data analysis and setting out requirements for data representation and visualization in ArcGIS environment.
- 2.2.10. The Consultant shall advise and assist on developing GIS Web User Interface (Portal) interfaces for reporting and data entry;
- 2.2.11. Consulting hours shall be ordered on demand;
- 2.2.12. Consulting services will not include the scope of ESRI Technical Support services;
- 2.2.13. Communication under service contract must be carried out by email, MS Teams etc. Presence meetings will be arranged if RB Rail or Consultant considers it necessary.
- 2.2.14. Orders and primary requests shall be placed through the Consultant's orders and tasks management electronic system which provides functionality to follow up the current status of each task/ order. Consultant is responsible to provide access (licences if necessary) and support for the RB Rail AS employees using orders and tasks management system used by the Consultant.

ANNEX NO 2: APPLICATION

APPLICATION FOR PARTICIPATION IN THE PROCUREMENT (INCLUDING FINANCIAL PROPOSAL) "GIS SUPPORT AND DEVELOPMENT SERVICES" (ID NO. RBR 2020/16)

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

By submitting the Proposal, the Tenderer hereby:

1. Confirms participation in the Procurement "GIS support and development services", ID No RBR 2020/16;
2. Proposes to deliver services in accordance with the Technical specification, according the total contract price – 41 000,00 (fourty one thousand *euros and 00 euro cents*) *excluding VAT* set by Contracting authority and this Proposal for the following fee (excluding VAT):

Hourly rate (EUR/h)	EUR _____
---------------------	-----------

3. Confirms that, if the Tenderer will be awarded the Contract, the Tenderer will provide quality and timely performance of the contractual liabilities for the offered price and in accordance with the requirements of the Annex No 1 "Technical specification";
4. Confirms that Regulations is clear and understandable, that it does not have any objections and complaints and that in the case of granting the right to enter into a Contract it shall fulfil all

conditions of the Regulations as well as enter into a Contract in accordance with the Draft contract enclosed with the Regulations (Annex No 6 "Draft contract");

5. Confirms that in the preparation and submission of its Proposal, Tenderer has fully considered all the clarifications issued by the Contracting authority;
6. Agrees that the Contracting authority reserves itself the right to reject any or all Proposals and cancel the Procurement before entry into Contract on the grounds specified in the Regulations or the law.
7. Guarantees that all information and documents provided are true.
8. **Confirms⁶ that meets the criteria of (please indicate by ticking relevant box):**

☐ a small ☐ medium ☐ other

sized enterprise⁷ as defined in the Article 2 of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise.⁸

[date of signing]

[name and position of the representative of the Tenderer]

Name, Surname and position of the representative of Tenderer

Address: [Address of the Tenderer]

Contact person, phone, e-mail: [Name, Surname, phone number, e-mail address for direct communication and correspondence]

Date: [date of signing]

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

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

⁸ Available here - http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2003.124.01.0036.01.ENG&toc=OJ:L:2003:124:TOC

ANNEX NO 3: DESCRIPTION OF THE TENDERER'S EXPERIENCE

DESCRIPTION OF THE TENDERER'S PREVIOUS EXPERIENCE FOR THE PROCUREMENT "GIS SUPPORT AND DEVELOPMENT SERVICES" (ID NO. RBR 2020/16)

The tenderer within the previous 5 (five) years (2015 - 2019) and 2020 till the submission deadline for the proposals has obtained the following experience:

No	Client, client's contact information for references (name of representative, phone, e-mail) ⁹	Period of the contract/ project (month/year – month/year)	Description of the services provided by the Tenderer what characterize required experience, stated in Section 8.3.2 of the Regulations	Value of services provided by the Tenderer within contract/ project (EUR)
Completed at least 1 (one) geographic information system (GIS) creation or modernization, or development services contract or project, where GIS database creation/ configuration services or implementation or configuration of WEB and Mobile applications for GIS data management, view, creation were provided and the total value of services provided within the contract or project were not less than 40 000,00 EUR without VAT.				
1.				
2.				
n+1				

[date of signing]

[name and position of the representative of the Tenderer]

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

ANNEX NO 4: DESCRIPTION OF THE KEY EXPERTS' PROFESSIONAL EXPERIENCE

No	<div style="display: flex; justify-content: space-between; border-top: 1px solid black; border-bottom: 1px solid black; padding: 5px 0;"> Key expert's <u>role</u> in team (in accordance with Section 8.3.3 of Regulation) Name, Surname </div>			
I Professional experience:				
	Title of the project/contract and Contracting authority. <small>contact details of Contracting authority for references</small>	Time period for the respective experience <small>(date of commencement and completion of the contract/ project where experience was gained: month/year - month/year)</small>	Description of the experience/responsibilities/role (according to Section 8.3.3.1. for Project Manager and 8.3.3.2 for GIS Technology Expert to prove compliance with the requirements)	<u>Description of the project/contract</u>
1.				
2.				
...				

II English language skills¹⁰ (based on Common European Framework of Reference for Languages) in understanding, speaking and writing:

Understanding		Speaking		Writing
Listening	Reading	Spoken interaction	Spoken production	
<i>Enter level...</i>	<i>Enter level...</i>	<i>Enter level...</i>	<i>Enter level...</i>	<i>Enter level...</i>

Levels: A1/A2 - Basic user; B1/B2 - Independent user; C1/C2 - Proficient user.

¹⁰ Language skill level is based on Common European Framework of Reference for Languages (see <http://europass.cedefop.europa.eu/resources/european-language-levels-cefr>)

I consent my candidature is proposed in the procurement procedure *"GIS support and development services"*, identification No RBR 2020/16. If the Tenderer [name of the Tenderer or members of the partnership: _____] will conclude the Contract as the result of this competition, I will participate in the execution of the procurement Contract.

Signature: _____

Date: [date of signing _____]

Name: [name of the expert _____]

ANNEX NO 5: SUBCONTRACTORS AND OTHER ENTITIES ON WHOSE CAPACITY THE TENDERER IS RELYING

A LIST OF SUBCONTRACTORS (INCLUDING OTHER ENTITIES ON WHOSE CAPACITY THE TENDERER IS RELYING TO MEET THE QUALIFICATION REQUIREMENTS) FOR THE PROCUREMENT "GIS SUPPORT AND DEVELOPMENT SERVICES" (ID NO. RBR 2020/16)

No	Name of the sub-contractor	Description of the sub-contracted task	Subcontracted tasks, estimated % of the total contract value	Capabilities (for example, key – experts experience etc.) on which the Tenderer is relying to meet specific qualification criteria (if applicable)
1.				
2.				
...				

We meet the criteria of (please mark):

☐ a small ☐ medium ☐ other

sized enterprise¹¹ as defined in the Article 2 of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise.¹²

[date of signing]

[name and position of the representative of the Tenderer]

¹¹ The information on the size of the Tenderer is used solely for statistical purposes and is not in any way whatsoever used in the evaluation of the Tenderer or the Proposal.

¹² Available here - http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2003.124.01.0036.01.ENG&toc=OJ:L:2003:124:TOC

GIS SUPPORT AND DEVELOPMENT SERVICES AGREEMENT

between

RB Rail AS

and

[●]

Contract registration number 1.19/LV-[●]

CEF¹³ Contract No INEA/CEF/TRAN/M2019/2098304 D11D

Procurement procedure identification No RBR 2020/16

Dated [●] [●]2020

¹³ Grant Agreement under the Connecting Europe Facility

AGREEMENT ON GIS SUPPORT AND DEVELOPMENT SERVICES

Agreement registration No	[●]
CEF ¹⁴ Contract No	[●]

This Agreement on GIS support and development services (the “**Agreement**”), inclusive of all of its Annexes hereto, is entered into in Riga on [date] (the “**Effective date**”) by and between:

- (1) **RB Rail AS**, registration No 40103845025, legal address: K. Valdemāra iela 8-7, Riga, LV-1010, Latvia (the “**Principal**”), represented by [●] acting on the basis of the Regulations on Representation Rights dated 20 July 2020, on the one side,
- and
- (2) [●], registration No [●], registered address: [●] (the “**Contractor**”), represented by [●] acting on the basis of [●] on the other side,

with each individually also referred to as the “**Party**” and collectively referred to as the “**Parties**”.

WHEREAS

- (A) This Agreement is entered into under the Global Project which includes all activities undertaken by the respective beneficiaries and implementing bodies of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania in order to build, render operational and commercialise the Rail Baltica railway – a new fast conventional double track electrified railway line according TSI INF P2-F1 criteria and European standard gauge (1435mm) on the route from Tallinn through Pärnu-Riga-Panevėžys-Kaunas to Lithuanian-Polish border, with the connection of Kaunas – Vilnius, and related railway infrastructure in accordance with the agreed route, technical parameters and time schedule;
- (B) RB Rail has organised a procurement “GIS support and development services” (identification No RBR 2020/16) (the “**Procurement**”);
- (C) In the Procurement the Contractor’s tender proposal (the “**Contractor’s Proposal**”; enclosed to this Agreement as *Annex 2: Contractor’s Financial Proposal*) was selected for entering into this Agreement;

This Agreement is co-financed from the Connecting Europe Facility (CEF), CEF Contract No INEA/CEF/TRAN/M2019/2098304, Activity D11D, Action No: 2019-EU-TMC-0282-S, furthermore considering the term of this Agreement it may also be co-financed from other CEF Contracts and/or Activities in the future.

3. SUBJECT MATTER OF THE AGREEMENT

- 3.1. The Contractor provides GIS support and development services to the Principal (the “**Services**”) as further specified in *Annex 1: Technical Specification* on an on-demand basis with the Parties agreeing upon each instance Services as a separate service order (the “**Order**”) and the Principal pays the Contractor for Services provided in full accordance with the provisions of the Agreement.

4. VALUE AND TERM OF THE AGREEMENT

- 4.1. During the term of the Agreement, the Contractor performs the Services for the Principal on the basis of Orders placed in accordance with the Agreement, for a total amount of no more than EUR 41 000,00 (forty one thousand euros, 00 cents) (the “**Total value**”), excluding VAT. The Principal is under no obligation to place

¹⁴ Grant Agreement under the Connecting Europe Facility (CEF) - Transport Sector Agreement No INEA/CEF/TRAN/M2019/2098304

Orders for Services for the Total value of the Agreement, and likewise the Contractor is not guaranteed any specific amount or value of Orders during the term of the Agreement.

- 4.2. The price of the Services includes all costs associated with the provision of the Services as specified in detail in *Annex 1: Technical Specification*, all taxes (except VAT which shall be paid at the applicable rates) and fees. If a specific Order requires a physical presence of the Contractor's employee(s) at the presence of the Principal (i.e. for training purposes) the Parties shall beforehand agree on reimbursement of travel and accommodation expenses as set in Section 17 of this Agreement.
- 4.3. The hourly rate for the provision of Services is fixed in *Annex 2: Contractor's Financial Proposal* and shall not be changed for the duration of this Agreement.
- 4.4. This Agreement shall commence on the Effective date and apply to the Services provided and shall remain in force until the due performance of obligations by the Parties.
- 4.5. The Agreement is concluded for a period of 12 (twelve) months starting from the Commencement date.
- 4.6. After the expiry of the Agreement period or once the Total value has been reached no more new Orders can be concluded. The Agreement terminates once all of the existing Orders are fully completed by the Contractor and approved by the Principal and the Parties have fulfilled their contractual obligations arising out of this Agreement.

5. ORDERS PROCEDURE

- 5.1. The Principal shall place an order for Services by having its authorised person send an e-mail to the Contractor's authorized person and specifying the required Services, planned required hours, any deadlines, further requirements and any other specifics as may be relevant (the "Order"). Alternatively, an Order can also be placed by using the Contractor's electronical system, fully accessible at [●] (the "System"), if the Contractor utilises such a system in its daily activities, in such a scenario the Contractor is required to ensure that the Principal's authorised person has free and unlimited access to the System so that the execution of this Agreement may be possible. The Order is valid if it is sent (or placed in the System) by the Principal's authorized person as distinguishable from the e-mail address specified in this Agreement.
- 5.2. The Order shall be deemed received on the same day the Order is sent to the e-mail address of the Contractor's authorised person or on the day the Order is placed in the System.
- 5.3. The Contractor confirms the receipt and acceptance of the Order for execution within 1 (one) business day from the day of its receipt by sending an e-mail to the Principal's authorized person to the e-mail address specified in the Agreement.
- 5.4. When performing the Services, the Contractor shall comply with the requirements set out in this Agreement and its Annexes.
- 5.5. The Contractor shall authorise the following employee(s), who is directly responsible for the organization of Orders, Deeds of Acceptance, consulting the Principal in matter related to Services as well as general performance of the Agreement (the "Contractor's authorised person"):
 - 5.5.1. Name, surname, telephone, e-mail of the employee: [●].
- 5.6. The Principal authorizes the following employee(s) to handle the Orders procedures, Deeds of Acceptance as well as to resolve all issues related to the performance of the Agreement (the "Principal's authorised person"):
 - 5.6.1. Name, surname, telephone, e-mail of the employee: [●].
- 5.7. The authorized persons of the Parties shall maintain active communication with each other during the term of the Agreement, as well as be responsible for monitoring the performance of the Agreement, including the timely submission and acceptance of invoices, their approval and submission for payment.
- 5.8. In the event that an authorized person of the Principal and / or the Contractor is substituted during the performance of the Agreement, the respective Party shall immediately inform the other Party thereof in writing. In such circumstances, no separate amendments to the Agreement are required.
- 5.9. Each of the Parties undertakes to list and store all executed Orders throughout the term of the Agreement.

6. PAYMENTS AND ACCEPTANCE

- 6.1. The Principal pays for each Order in accordance with the invoice prepared by the Contractor. The Contractor prepares the invoice electronically and sends it electronically to the Principal's e-mail address: invoices@railbaltica.org.

- 6.2. The Contractor's invoices shall contain the following Contractor's details and details about the Agreement:

Contractor	[●]
Registration No	[●]
VAT payer's No or indication that the Contractor is not a VAT payer	[●]
The Principal's VAT No	LV40103845025
Legal address, city, Zip code, country	[●]
Legal name of Bank	[●]
Bank SWIFT Code	[●]
Bank Account No IBAN	[●]
Subject:	For provided services according to the Agreement No [●] (CEF Contract No INEA/CEF/TRAN/M2019/2098304, Activity No D11D), Contract Manager: [●]

- 6.3. Once a month, by the 5th day of the month, the Contractor's authorised person shall submit to the Principal's authorised person a Deed of Acceptance specifying all the Orders made and executed in the previous calendar month as well as an invoice for the aforementioned Orders.
- 6.4. The Principal will accept the Deed of Acceptance only if the Principal does not have objections against the quality of the delivered Services.
- 6.5. The Principal has rights to raise objections to the quality of Services within 7 (seven) days from the date of the delivery of the Deed of Acceptance. In such case the Contractor must remedy any deficiencies as soon as practically possible, but not later than within 7 (seven) days. If the Principal does not raise any objections during the 7 (seven) day period from the delivery of the Deed of acceptance (i.e. on the 13th day of the month) then it is acknowledged that the Deed of Acceptance is accepted and the deadline for payment of the respective invoice has begun.
- 6.6. If the Principal finds deficiencies in the submitted invoice, the Principal shall inform the Contractor about such identified deficiencies, and the Contractor shall submit a corrected invoice to the Principal within 3 (three) business days.
- 6.7. The Principal shall pay the invoices submitted by the Contractor in accordance with the provisions of the Agreement for the fulfilled Orders, within 30 (thirty) days after the date when the respective Deed of Acceptance has been accepted by the Principal and the Principal has received a correct invoice for the respective period.
- 6.8. Payment shall be deemed made when the Principal has made a payment from its bank account to the Contractor's bank account specified in the Agreement.
- 6.9. The parties agree to recognize as valid and payable invoices prepared electronically without the "signature" part of the details area.
- 6.10. [OPTIONAL] The Contractor ensures that the income mentioned in this Agreement will not derive through permanent establishment or fixed base maintained by the Contractor in the Republic of Latvia. The Contractor agrees to submit to the Principal four (4) copies of "Residence Certificate–Application for Reduction of or Exemption from Latvian anticipatory taxes withheld at source from payments (management and consultancy fees, leasing fees and certain other types of income), paid to residents of [●]" (the "Residence Certificate") confirmed by Competent Authority of [●] and the Latvian State Revenue Service. The Residence Certificate shall be submitted to the Principal prior the Principal will due to make a payment of the fee or other payments to the Contractor. Otherwise the Principal will withhold withholding tax at the rate of 20% from the fee and payments made to the Contractor. The Principal is entitled to make any deductions from the payments due to the Contractor if the Contractor doesn't comply with this provision.

7. RESPONSIBILITIES OF THE PRINCIPAL

- 7.1. The Principal shall, in a timely manner, provide to the Contractor any required information at the disposal of the Principal as may reasonably be requested by the Contractor for the purposes of the provision of Services. The Principal shall also provide the Contractor with the necessary access to various IT systems and or applications of the Principal as may be required for the performance of this Agreement.
- 7.2. In the event the Principal observes or otherwise becomes aware of any error, fault, omission, or defect in the Services, the Principal shall give prompt notice thereof to the Contractor. The Contractor shall have the obligation to correct such error, fault, omission, or defect in the Services.

8. RESPONSIBILITIES OF THE SERVICE PROVIDER

- 8.1. For the duration of the Agreement the Contractor shall
 - 8.1.1. in performing its obligations under this Agreement, exercise reasonable professional skill, diligence and care as may be expected of a properly qualified and competent person carrying out services of a similar size, nature, type and complexity;
 - 8.1.2. ensure that its personnel are properly qualified and competent;
 - 8.1.3. at all times during the term of the Agreement comply with all the applicable statutory laws and regulations of the Republic of Latvia;
 - 8.1.4. comply, where applicable, with any reasonable requirements of the Principal not otherwise provided for in this Agreement;
 - 8.1.5. sign the Contractor's Declaration, which is attached as Annex 3: Contractor's Declaration and constitutes integral part of the Agreement.
- 8.2. During the term of the Agreement and during 5 years from expiration or termination of this Agreement for any reason whatsoever, the Contractor shall keep and maintain clear, adequate and accurate records and documentation evidencing, that the Services have been and are being carried out appropriately.
- 8.3. In carrying out the Services, the Contractor may only rely on the services of those Approved Sub-Contractors and Staff listed in Annex 4: List of approved Sub-Contractors and Staff, 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 applicable Public Procurement Law of the Republic of Latvia. Parties shall specify the name, contact details and legal representative(s) of each Approved Sub-Contractor as of the Effective Date in Annex 4: List of approved Sub-Contractors and Staff. The Contractor shall have an obligation to notify the Principal in writing of any changes to Sub-Contractor or Staff data specified in Annex 4: List of approved Sub-Contractors and Staff occurring during the term of this Agreement and of the required information for any new Sub-Contractors or Staff member which it may subsequently engage toward provision of the Services.
- 8.4. Pursuant to the Public Procurement Law of the Republic of Latvia the Contractor shall obtain prior written consent of the Principal for the replacement of each Sub-contractor or each Staff member, or each key personnel indicated in *Annex E: List of approved Sub-Contractors and Staff* and involvement of additional Sub-contractors or Staff members, or key personnel.
- 8.5. Review and evaluation of the replacement of Sub-contractors or Staff shall be carried out, and the consent or refusal to give consent shall be rendered by the Principal in accordance with Article 62 of the Public Procurement Law of the Republic of Latvia.
- 8.6. The Contractor shall replace the Sub-contractor and/or Staff member which, during the effectiveness of this Agreement, meets any of the compulsory grounds for exclusion of tenderers (or sub-contractors) that were verified during the Procurement Procedure.
- 8.7. Parties shall specify the name, contact details and legal representative(s) of each approved subcontractor as of the Effective date in *Annex 4: Approved subcontractors and staff*. The Contractor shall have an obligation to notify the Principal in writing of any changes to subcontractor data specified in *Annex 4: Approved subcontractors and staff* occurring during the term of this Agreement and of the required information for any new subcontractor which it may subsequently engage toward provision of the Services.
- 8.8. Pursuant to the Public Procurement Law of the Republic of Latvia the Contractor shall obtain prior written consent of the Principal for the replacement of each subcontractor indicated in *Annex 4: Approved subcontractors* and staff and involvement of additional subcontractors.

- 8.9. Review and evaluation of the replacement of subcontractors shall be carried out, and the consent or refusal to give consent shall be rendered by the Principal in accordance with Article 62 of the Public Procurement Law of the Republic of Latvia.
- 8.10. The Contractor shall replace the subcontractor which, during the effectiveness of this Agreement, meets any of the compulsory grounds for exclusion of tenderers (or sub-contractors) that were verified during the Procurement.
- 8.11. The Contractor retains the complete responsibility for the proper performance of all of its obligations under this Agreement, and any act, failure to act, breach or negligence on the part of any of its Approved Sub-Contractors and Staff shall, for the purposes of this Agreement, be deemed to be the act, failure to act, breach or negligence of the Contractor.
- 8.12. Except with the Principal's knowledge and express written permission, the Contractor shall not engage in any activity, or accept any employment, other agreement, interest, or contribution that would reasonably appear to compromise the Contractor's professional judgment and performance with respect to the Agreement. In performing the Services, the Contractor shall take all necessary measures to prevent any situation where the impartial and objective implementation of the Services is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest.
- 8.13. The Contractor undertakes to inform the Principal on detected vulnerabilities of information and communication technology related to Services utilized by the Principal and shall also provide the Principal with mitigation measures and deadlines for the implementation of such measures.
- 8.14. By entering into this Agreement, the Contractor warrants that the Contractor and each of its subcontractors is:
- 8.14.1. a legal person:
- (a) that is registered in a country that is a member state of NATO, the European Union or the European Economic Area;
 - (b) whose beneficial owner is a citizen of a member state of NATO, the European Union or the European Economic Area or a non-citizen of the Republic of Latvia;
 - (c) whose manufacturer of the software or equipment used for the provision of the Services is a legal person that is registered in a country that is a member state of NATO, the European Union or the European Economic Area, or a natural person who is a national of the Republic of Latvia, or is a citizen of a member state of NATO, the European Union or the European Economic Area;
- 8.14.2. or a natural person natural person who is a national of the Republic of Latvia, or is a citizen of a member state of NATO, the European Union or the European Economic Area.
- 8.15. The Contractor undertakes to immediately inform the Principal regarding any changes of its and its subcontractors' beneficial owners during the performance of this Agreement. The Agreement shall be terminated with immediate effect if the restrictions specified Clause 6.6. of this Agreement have occurred in relation to the beneficial owners and the competent national safety authority has not agreed on the continuation of this Agreement.

9. SECURITY CLEARANCE REQUIREMENTS

- 9.1. The Contractor may not involve in the performance of the Agreement a person convicted of an intentional criminal offense (employees, subcontractors and / or any other person and personnel), a person whose criminal record has been removed or abolished, or a person of whom there are known facts that cast doubt on his ability to maintain restricted and/or classified information.
- 9.2. At the Principal's request, the Contractor shall submit to the Principal a statement from the relevant state penalty register regarding the natural person who will be involved in the performance of the Agreement.
- 9.3. In order to assess the compliance of the natural person whom the Contractor intends to involve in the performance of the Contract 7.1. the Principal has the right to organize an additional security compliance check.
- 9.4. The Contractor undertakes to inform the natural person involved in the performance of the Agreement about the processing of personal data performed by the Principal when organizing a security compliance check.
- 9.5. The Contractor shall submit to the Principal in writing at least ten (10) business days prior to the involvement of any natural person in the performance of the Agreement the following information of the person: name,

surname, personal identification code (or equivalent personal identification information), place of birth, position. At the Principal's request, the Contractor shall also submit a brief description of the role and responsibilities of the natural person in the performance of the Agreement.

- 9.6. The Principal has the right, at its own discretion, to prohibit a natural person specified by the Contractor from performing tasks related to the performance of the Agreement by notifying the Contractor thereof in writing if the requirements referred to in this section of the Agreement are not complied with. The Parties agree that such decision of the Principal is indisputable.
- 9.7. If the Principal prohibits a natural person specified by the Contractor from performing the tasks related to the performance of the Agreement, the Contractor shall replace this natural person with another natural person by notifying the Principal in accordance with the procedure laid down in of Article 7.5. of the Agreement.
- 9.8. If the Contractor cannot replace a natural person or if its replacement would cause disproportionately high expenses to the Contractor, the Contractor shall immediately provide the Principal with a motivated explanation and the Parties shall try to agree on possible conditions and procedures in which this natural person may perform tasks related to the performance of the Agreement.
- 9.9. The Contractor shall take all necessary actions and measures in a timely manner to ensure that a natural person is not involved in the performance of the Contract or the involvement is immediately terminated if the natural person does not comply with Clause 7.1. of this Agreement, otherwise creates or may create security risks for the Principal, the security of the Principal's systems, Services or data.
- 9.10. The Contractor is obliged to provide:
 - 9.10.1. that a natural person who does not comply with the security clearance requirements is not involved in the performance of the Agreement;
 - 9.10.2. to immediately replace a natural person who does not comply with the requirements of the security clearance in accordance with the requirements of the Public Procurement Law and the provisions of this Agreement;
 - 9.10.3. to observe and not contest the Principal's written instructions and decisions in accordance with Section 7 of the Agreement;
 - 9.10.4. to provide the Principal with all the necessary information and support related to the necessity to change a natural person.
- 9.11. In any case, the Contractor shall immediately notify the Principal in writing of any situation that has arisen before and during the performance of the Agreement, as a result of which there is or may be a risk of involving a non-compliant natural person and related security risks security, as well as the replacement of such a natural person involved in the performance of the Agreement.
- 9.12. If the Contractor violates the conditions referred to in Section 7 of this Agreement, then it is considered as a material breach of the Agreement and as grounds for the Principal to unilaterally terminate the Agreement by notifying the Contractor in writing 1 (one) business day in advance.

10. INTELLECTUAL PROPERTY

- 10.1. The Principal has rights to fully use the deliverables provided by the Contractor in accordance with the provisions of this Agreement for their designed purposes without any additional authorizations from the Contractor. The Parties hereby acknowledge that insofar as allowed by the statutory law the deliverables (if any) will be regarded as full legal property (including any intellectual property rights) of the Principal.

11. LIABILITY

- 11.1. The Contractor shall be liable to compensate damages incurred by the Principal arising out of or in connection with this Agreement and pay contractual penalty if a breach of any of the obligations of the Contractor under this Agreement is established against the Contractor. The Principal shall be liable to pay the contractual penalty if a breach of payment obligations of the Principal under this Agreement is established against the Principal.
- 11.2. If the Principal fails to make any payment due to the Contractor under this Agreement on the due date then, without prejudice to any other right or remedy available to the Contractor, the Contractor shall be entitled to:
 - 11.2.1. terminate this Agreement by giving written notice to the Principal provided that the Principal fails to make the due payment within 10 business days after receiving written notice from the

Contractor giving full particulars of the payment due and requiring such payment to be made within 10 business days; and

- 11.2.2. charge the Principal a penalty of 0.5 (zero point five) per cent of the unpaid amount for each day of delay, but not more than 10 (ten) per cent of the unpaid amount (both before and after any judgement), until payment in full is made.
- 11.3. If the Contractor does not comply with a deadline for completion of Services agreed upon in Orders or does not conform with the time limits set for correcting faults and errors made then, without prejudice to any other right or remedy available to the Principal, the Principal shall be entitled to charge the Contractor a penalty of 0.5 (zero point five) per cent of the unpaid amount for each day of delay, but not more than 10 (ten) per cent of the unpaid amount (both before and after any judgement), until payment in full is made.
- 11.4. Payment of a contractual penalty shall not release the Parties from the performance of obligations arising out of this Agreement.

12. TERMINATION

- 12.1. Any Party may terminate this Agreement by submitting a written notice to the other Party at least 30 days in advance:
 - 12.1.1. if the other Party commits a material breach of any of the terms of this Agreement and that breach (if capable of remedy) is not remedied within 30 days of written notice being given by the suffering Party requiring the remedy;
 - 12.1.2. if liquidation, bankruptcy, insolvency or legal protection proceedings have been initiated against the other Party or if the other Party itself has filed for liquidation, bankruptcy, insolvency or legal protection proceedings.
- 12.2. The Principal may terminate this Agreement with immediate effect by submitting a relevant written notice to the Contractor:
 - 12.2.1. if the Contractor fails to meet any requirements set out for the data processing within the European Union, in the Agreement, or in any applicable law;
 - 12.2.2. if by the third party's decision the Connecting Europe Facility (CEF) co-financing of the Agreement becomes unavailable to the Principal fully or partly;
 - 12.2.3. if international or national sanctions, or substantial sanctions by a Member State of the European Union or the North Atlantic Treaty Organization affecting the financial and capital market interests have been imposed on the Contractor;
- 12.3. In cases stipulated in Clause 10.1 and 10.2, the Principal shall pay the Contractor the fees in respect of the Services provided under this Agreement up to the date of the notification of the termination of this Agreement and the Principal is not obliged to pay contractual or any other penalty or damages to the Contractor. In any other situation the Principal may exercise its right to partially accept Services or part of Services, thus remunerating the Contractor for the partially accepted Services or part of Services.
- 12.4. The Parties may amend the Agreement on the basis of a mutual, written agreement.

13. PERSONAL DATA PROTECTION

- 13.1. The Parties shall have the right to process personal data obtained from the other Party only for the purpose of fulfilling the obligations under this Agreement, while ensuring compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) ("GDPR").
- 13.2. The Party transferring the personal data to the other Party for processing shall be responsible for obtaining the consent of the data subjects concerned.
- 13.3. The Parties undertake not to transfer to third parties the data of natural persons obtained from the other Party, except in cases when the Agreement provides otherwise, or the regulatory enactments provide for the transfer of such data.
- 13.4. If, in accordance with regulatory enactments, a Party may be obliged to transfer to third parties the personal data obtained from the other Party, it shall inform the other Party thereof prior to the transfer of such data, unless prohibited by regulatory enactments.

- 13.5. Notwithstanding the provisions of Clause 11.3 of the Agreement, the Contractor agrees that the Principal transfers the personal data received from the Contractor to third parties who provide services to the Principal and with whom the Principal cooperates to ensure its operation and performance of the Agreement.
- 13.6. The Parties undertake to destroy, at the request of the other Party, the data of natural persons obtained from the other Party if the need to process them to ensure the performance of the Agreement ceases.

14. CONFIDENTIALITY

- 14.1. "Confidential Information" means all information of a confidential nature relating to the Parties and their affiliates which is supplied by the a Party (whether before or after the date of this Agreement) to the other Party, either in writing, orally or in any other form and includes all analyses, compilations, notes, studies, memoranda and other documents which contain or otherwise reflect or are derived from such information.
- 14.2. Both Parties shall at all times keep confidential (and take reasonable steps to procure that its employees and agents shall keep confidential) and shall not at any time for any reason disclose or permit to be disclosed to any person or otherwise make use of or permit to be made use of any Confidential Information obtained during implementation of this Agreement, relating to the Services, other Party's business methods, plans, systems, finances, projects, trade secrets. The obligation to keep confidentiality shall remain effective also after the expiration or termination of this Agreement.
- 14.3. Upon termination of this Agreement for whatever reason both Parties shall deliver to the other Party all working papers or other material and copies provided to him pursuant to this Agreement or prepared by him either in pursuance of this Agreement or previously.
- 14.4. The Parties agree that the Principal, the Contractor and the employees and staff of the Contractor who during the performance of the Services shall be granted access to the IT systems and/or data or information of the Principal shall sign a tripartite mutual agreement on the nondisclosure of Confidential Information of the Principal.

15. VISIBILITY REQUIREMENTS

- 15.1. The Contractor is obliged to comply with the following visibility requirements:
- 15.1.1. Any reports, brochures, other documents or information connected with Services which the Contractor produces and submits to the Principal, any other third person or makes publicly available must include the following:
- (a) a funding statement stating that Services is the recipient of the funding from the CEF: "Rail Baltica is co-financed by the European Union's Connecting Europe Facility";
 - (b) (for printed materials) a disclaimer releasing the European Union from any liability in terms of the content of the dissemination materials: "The sole responsibility of this publication lies with the author. The European Union is not responsible for any use that may be made of the information contained therein." This disclaimer in all European Union official languages can be seen at the website: <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>;
 - (c) the European Union flag.
- 15.1.2. Requirements set in Clause 13.1.1.a and 13.1.1.c can be fulfilled by using the following logo:



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

- 15.1.3. If the Contractor shall use this logo, the Contractor shall ensure that elements of the logo will not be separated (the logo will be used as one whole unit) and enough free space around the logo shall be ensured;
- 15.1.4. The Contractor is obliged to comply with the latest visibility requirements set by the European Union. For that purpose, the Firm shall follow the changes in the visibility requirements on its own. On the date of conclusion of this Agreement the visibility requirements are published on the

following website: <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>.

16. CHECKS AND AUDITS

- 16.1. By giving a written notice 5 (five) business days in advance, but in case of an unannounced check without an advance notice, the Principal may carry out on-the-spot visits to the sites and premises where the activities implemented within the Agreement are or were carried out. On-the-spot visits may be carried out either directly by the authorized staff of the Principal or by any other outside body authorized to do so on behalf of the Principal. Information provided in the framework of on-the-spot visits shall be treated on confidential basis. The Principal shall ensure that any outside body authorized shall be bound by the confidentiality obligation. The Contractor shall provide to the performer of the on-the-spot visit or any other outside body authorized access to all the information and documents, including information and documents in electronic format, which is requested by the authorized staff of the performer of the on-the-spot visit or any other outside body authorized for the performance of an on-the-spot visit and which relates to the implementation of the Agreement, as well as shall allow the authorized staff of the performer of the on-the-spot visit or any other outside body authorized copying of the information and documents, with due respect to the confidentiality obligation.
- 16.2. By virtue of Council Regulation (Euratom, EC) No 2185/961 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities and Regulation (EU) No 883/20132 of the European Parliament and the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities. Where appropriate, OLAF findings may lead to criminal prosecution under national law.
- 16.3. By giving a written notice 5 (five) business days in advance, but in case of an unannounced check or audit without an advance notice, the Principal may carry out technical, legal and financial checks and audits in relation to the implementation of the Agreement. Checks and audits may be carried out either directly by the authorized staff of the Principal or by any other outside body authorized to do so on Principal's behalf. Information and documents obtained in the framework of checks or audits shall be treated on a confidential basis.
- 16.4. Contractor shall provide to the performer of the check or audit or any other outside body authorized access to all the information and documents, including information in electronic format, which is requested by the performer of the check or audit or any other outside body authorized for the performance of the check or audit and which relates to the implementation of the Agreement, as well as shall allow the performer of the check or audit or any other outside body authorized by it copying of the information and documents with due respect to the confidentiality obligation.

17. FORCE MAJEURE

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

18. SEVERABILITY

- 18.1. If any provision of this Agreement is found to be illegal, invalid or unenforceable under applicable law effective during the term of this Agreement, the remaining provisions of this Agreement will nevertheless remain binding. The Parties will negotiate in a good faith to replace the invalid provision with a provision with the economic effect as close as possible to that of the illegal, invalid or unenforceable provisions.
- 18.2. None of the contracting Parties may transfer its rights and obligations to a third party without a prior written approval of the other Party.

18.3. The Agreement is signed in 2 (two) copies, each on [●] pages, one copy for each Party. The Agreement has 4 annexes on [●] pages.

19. REIMBURSEMENT OF TRAVEL EXPENSES

19.1. The Principal shall reimburse the travel expenses incurred by the Contractor during the provision of services only in the following cases:

- 19.1.1. travel expenses are indicated and agreed in the corresponding Order;
- 19.1.2. travel expenses incurred for the implementation of the corresponding Order;
- 19.1.3. travel expenses are justified by documents.

19.2. In case the Principal for the implementation of a particular Order requires the Contractor's employee(s) to travel from his/her place of residence or Contractor's office (whatever is applicable) for more than 200 km one way, the Principal shall reimburse incurred travel¹⁵ expenses for the Contractor's employee(s) included in a particular Order.

19.3. For the implementation of a particular Order where traveling is included, Contractor's employee(s) shall ensure average level economical travel and accommodation expenses. The Contractor's employee(s) reserves the right to choose the accommodation.

19.4. The following travel expenses are subject to reimbursement:

- 19.4.1. Bus travel expenses if distance of less than 400 km one-way;
- 19.4.2. Second-class rail travel expenses if distance of less than 400 km one-way;
- 19.4.3. Economy class air travel expenses if distance of more than 400 km one-way;
- 19.4.4. A travel expense (a return ticket) shall not exceed 500 EUR. Travel expense exceeding 500 EUR on return ticket will be reimbursed at 500 EUR max.

20. GOVERNING LAW AND DISPUTE RESOLUTION

20.1. This Agreement is governed by the laws of the Republic of Latvia.

20.2. Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, will be settled by courts of the Republic of Latvia.

21. ANNEXES

- 21.1. Annex 1: Technical Specification;
- 21.2. Annex 2: Contractor's Financial Proposal;
- 21.3. Annex 3: Contractor's Declaration;
- 21.4. Annex 4: Approved subcontractors and staff.

22. SIGNATURES

On behalf of RB Rail AS

On behalf of [●]

[●]

[●]

¹⁵ [The point of departure shall be limited to the location in Europe.](#)