

REGULATIONS

FOR THE PROCUREMENT

"LEGAL SERVICES"

(IDENTIFICATION NO RBR 2022/23)



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

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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 **Contracting authority** - the joint stock company RB Rail AS, registration number: 40103845025, legal address: Satekles iela 2B, Riga, LV-1050, Latvia;
- 1.3 **Contractor** - service provider awarded the right to enter into the Framework agreement in Procurement to provide services in accordance with requirements stipulated in Regulations and Framework agreement;
- 1.4 **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 2022/23);
- 1.5 **Framework agreement** - signed agreement between Contracting authority and Contractors to provide services defined in this agreement;
- 1.6 **Procurement** - procurement "Legal services" (identification number: RBR 2022/23) in which all interested Suppliers are entitled to submit their Proposals;
- 1.7 **Procurement commission** - commission the composition of which has been established by the Contracting authority, order No 1.9-2022-26 dated 19 July 2022;
- 1.8 **Proposal** - documentation package the Tenderer submits to participate in the Procurement;
- 1.9 **Public Procurement Law (PPL)** - Public Procurement Law of the Republic of Latvia;
- 1.10 **Regulations** – regulations of the Procurement "Legal services" (identification number: RBR 2022/23), as well as all the enclosed annexes;
- 1.11 **Supplier** – a natural person, a law firm 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;
- 1.12 **Tenderer** – a Supplier which has submitted a Proposal;
- 1.13 **VAT** – Value Added Tax.

2 GENERAL INFORMATION

- 2.1 The identification number of the Procurement is RBR 2022/23.
- 2.2 The Procurement is co-financed by the Contracting Authority and Connecting Europe Facility (CEF).
- 2.3 This Procurement is organised in accordance with Section 10, Paragraph one of the Public Procurement Law in effect on the date of publishing the notice about social and other specific services.
- 2.4 The Procurement is carried out using E-Tenders system (<https://www.eis.gov.lv/EKEIS/Supplier>) which is subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EIS/>).
- 2.5 The Regulations is freely available on Contracting authority's profile in the E-Tenders system on webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/88164> and on the webpage of the Contracting authority <http://railbaltica.org/tenders/>.
- 2.6 Amendments to the Regulations and answers to Suppliers' questions will be published on Contracting authority's profile in the E-Tenders system on webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/88164> 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.
- 2.7 Contact person of the Contracting authority for this Procurement is Procurement Specialist-Lawyer Vineta Ezergaile, telephone: +371 29352018, email: vineta.ezergaile@railbaltica.org.
- 2.8 The exchange of information between the Procurement commission and the Supplier or Tenderer shall be in writing (by sending documents electronically to e-mail or using E-Tenders system) in English (if information is submitted in Latvian, it shall be accompanied by a translation into English).
- 2.9 If the Supplier does not have access to the E-Tenders system, the Supplier shall 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/>.

- 2.10 The Supplier can request additional information regarding the Regulations. Additional information shall be requested in writing on the E-Tenders system or (only in case the Supplier does not have access to the system yet) by sending it to the Procurement commission electronically to e-mail (please see Section 2.7 of the Regulations). Any additional information must be requested in a timely fashion, so that the Procurement commission can reply on time - no later than 6 (six) days prior to the deadline of the Proposal submission.
- 2.11 The Supplier covers all expenses which are related to the preparation of the Proposal and its submission to the Contracting authority. Under no circumstances will the Contracting authority be liable for compensation of any costs and damages related to the preparation and submission of the Proposal or the Supplier's participation in the Procurement exercise.

3 THE RIGHTS OF THE PROCUREMENT COMMISSION

- 3.1 The Procurement commission has the right to demand at any stage of the Procurement that the Tenderer submits all or part of the documents which certify Tenderer's compliance to the requirements for the selection of tenderers. The Procurement commission does not demand documents or information which is already at its disposal or is available in public data bases.
- 3.2 If the Tenderer submits document derivatives (e.g. copies), then in case of doubt about the authenticity of the submitted document derivation the Procurement commission can demand that the Tenderer shows the original documents.
- 3.3 During the evaluation of the Proposals, 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, its subcontractors and persons upon whose capacity the Tenderer is relying that is included in the submitted documents is unclear or incomplete, it demands that the Tenderer or a competent institution clarifies or expands 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 demanded 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 is 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 on Contracting authority's profile at the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/88164> and on the webpage of the Contracting authority <http://railbaltica.org/tenders/>.
- 4.3 If an interested Supplier has requested additional information in accordance with the Section 2.10 of the Regulations, the Procurement commission provides an answer electronically not later than 6 (six) days before the deadline for submitting Proposals. Simultaneously with sending this information to the Supplier who has asked the question, the Contracting authority publishes this information on Contracting authority's profile on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/88164> and on Contracting authority's webpage <http://railbaltica.org/tenders/> where Procurement documents are available, indicating the question asked.
- 4.4 If the Contracting authority has amended the Procurement documents, it publishes this information on Contracting authority's profile on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/88164> and on Contracting authority's webpage <http://www.railbaltica.org/tenders/>, where Procurement documents are available and submits notification regarding the amendments to Procurement Monitoring Bureau. If Supplier wishes to receive relevant updates/notifications regarding the Procurement exercise (e.g., when amendments to the Procurement documentation are published) by email, the Supplier shall register as an interested supplier on the E-Tenders system for the particular Procurement exercise accordingly.
- 4.5 The exchange and storage of information is carried out in such a way that all data included in the Proposals is protected and the Contracting authority can check the content of the Proposals only after

the expiration of the deadline for their submission. From the day of submission of Proposals until the opening of the Proposals the Contracting authority does not disclose information regarding the existence of other Proposals. During the Proposal evaluation, the Contracting authority does not disclose any information regarding the evaluation process until the announcement of the results.

- 4.6 The Procurement commission evaluates Tenderers and their Proposals based on the Public Procurement Law, Regulations, as well as other applicable regulatory enactments.

5 THE RIGHTS OF THE TENDERER

- 5.1 The Tenderer has the right to submit registration documents for the registration on the Electronic Procurement System (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 The Tenderer can request and within 3 (three) business days after submitting the request receive a copy of the Proposal opening sheet, which is an annex to the Proposal opening meeting minutes.
- 5.3 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.
- 5.4 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 a complaint to the Procurement Monitoring Bureau according to the procedure stipulated in the Public Procurement Law regarding the Tenderer selection requirements, technical specifications or other requirements related to the Procurement, or related to the activities by the Contracting authority or the Procurement commission during the Procurement process.

6 SUBJECT-MATTER OF THE PROCUREMENT

- 6.1 The subject-matter of the Procurement is provision of the legal services (hereinafter-Services) for RB Rail AS in accordance with Annex No 1 "Technical specification" of the Regulations (hereinafter – Technical specification). Through Procurement the Contracting authority intends to establish a list of experienced legal advisors (law firms or legal persons) (hereinafter – Panel law firms) having required qualification and experience in particular service lines as defined in Section 3 of Technical specification (hereinafter – Service lines) who could be called on-demand basis to provide independent professional legal services on various legal matters in Estonia, Latvia and Lithuania.
- 6.2 The applicable CPV code is 79100000-5 (Legal services).
- 6.3 The subject matter is not divided into parts. The Tenderer shall submit a Proposal for the entire Procurement.
- 6.4 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.
- 6.5 The delivery of the Services will take place in Estonia, Latvia, Lithuania.
- 6.6 Period of provision of Services: 24 (twenty-four) months after the commencement date or until the maximum Framework agreement amount indicated in the Section 6.7 of the Regulations is reached, whichever comes first. There will be an option to extend the term of the Framework agreement for another year if the contract amount will not be reached within the initial period.
- 6.7 The value of the Framework agreement shall not exceed EUR 975 000 (nine hundred seventy-five thousand euros), excluding VAT.
- 6.8 Rights to conclude Framework agreement will be awarded up to 3 (three) Tenderers with the most economically advantageous proposals selected according to Section 20 of Regulations.

7 TENDERER

- 7.1 The Proposal can be submitted by:

- 7.1.1 A Supplier, who is a law firm, legal person, or natural person (hereinafter – Tenderer) who complies with the selection criteria for Tenderers;
- 7.1.2 A group of Suppliers (hereinafter also – Tenderer, partnership) who complies with the selection criteria for Tenderers:
- 7.1.2.1 A group of Suppliers who have formed a partnership for the Procurement. In this case all members of the partnership shall be listed in Annex No 2 "Application for participation in the Procurement" of the Regulations. If it will be decided to award contracting rights to such partnership, then prior to entering into Framework agreement the partnership shall at its discretion either enter into a partnership agreement (within the meaning of the Civil Law of the Republic of Latvia, 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 the Commercial Law of the Republic of Latvia, Division 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 the Commercial Law of the Republic of Latvia, Division IX and X).
- 7.2 According to Article 5k of Council Regulation (EU) 2022/576 of 8 April 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine¹ it is prohibited to participate in the Procurement:
- 7.2.1 a Russian national, or a natural or legal person, entity or body established in Russia;
- 7.2.2 a legal person, entity or body whose proprietary rights are directly or indirectly owned for more than 50% by an entity referred to in Sub-Section 7.2.1. of this Section;
- or
- 7.2.3 a natural or legal person, entity or body acting on behalf or at the direction of an entity referred to in Sub-Section 7.2.1. or 7.2.2. of this Section, including, where they account for more than 10% of the Framework agreement value, subcontractors, suppliers or entities whose capacities are being relied on within the meaning of the Public Procurement Law.
- 7.3 With reference to Section 15 of the Public Procurement Law and the Contracting Authority's discretion in the application of Section 15 of the Public Procurement Law, participation of any entities from the Russian Federation and/or the Republic of Belarus is prohibited.

8 SELECTION CRITERIA FOR TENDERERS

- 8.1 The Contracting authority shall exclude Tenderer from further participation in the Procurement in following circumstances:

No	Requirement	Documents to be submitted ²
8.1.1.	International or national sanctions or substantial sanctions by the European Union (EU) or the North Atlantic Treaty Organization (NATO) Member State affecting the interests of the financial and capital market has been imposed to the: a) Tenderer or a person who is the Tenderer's management board or supervisory board member, beneficial owner ³ , person with	- For a Tenderer registered or residing in Latvia, the Contracting authority will verify the information itself from the Register of Enterprises of the Republic of Latvia. - For a Tenderer registered or residing outside of Latvia, the Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence with all the information necessary for the examination regarding the Tenderer or a member of the

¹ Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022R0576>.

² There is no obligation to submit documents, unless specifically requested by the Procurement commission.

³ **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:

No	Requirement	Documents to be submitted ²
	<p>representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch,</p> <p>b) member of the partnership or a person who is the partnership's management board or supervisory board member, beneficial owner⁴, person with representation rights or a procura holder (if the Tenderer is a partnership),</p> <p>and such sanctions can affect the execution of the Procurement contract.</p>	<p>partnership (if the Tenderer is a partnership), including but not limited, information about beneficial owner or the fact that there is no possibility to find out the beneficial owner.</p>

8.2 Legal standing and suitability to pursue the professional activity

No	Requirement	Documents to be submitted
8.2.1.	<p>The Tenderer, all members of the partnership (if the Tenderer is a partnership), a person on whose capacity Tenderer relies, a subcontractor 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, a member of a partnership, a person on whose capacity Tenderer relies, a subcontractor, which is a legal person registered in Latvia, the Contracting authority will verify the information itself in publicly available databases. - For a Tenderer, a member of the partnership, a person on whose capacity Tenderer relies who is a natural person – a copy of an identification card or passport. - For a Tenderer, a member of a partnership, a person on whose capacity Tenderer relies, a subcontractor, which is a legal person registered abroad (with its permanent place of residence abroad) – a copy of a valid registration certificate or a similar document issued by a foreign authority in charge of the registration of legal persons in the country of their residence where from at least the fact of registration, shareholders, officials and procura holders (if any) can be determined. - If a Proposal is submitted by a partnership, the Proposal shall include an agreement or letter of intention (LOI) to enter into an agreement signed by all members of the partnership. The agreement and/or LOI shall list responsibilities of each and every partnership member and a joint commitment to fulfil the Framework agreement. The partnership members in the agreement and / or LOI shall nominate a member, who is authorised on behalf of the partnership to sign the Proposal and related documents, as well as receive and issue orders, and who shall issue invoices and receive disbursement. - If the Proposal or any other document, including any agreement, is not signed by the legal

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.

⁴ Please see the previous reference.

No	Requirement	Documents to be submitted
		representative of the Tenderer, member of the partnership, person on whose capacity Tenderer relies or subcontractor, a document certifying the rights of the person who have signed the Proposal or any other documents, to represent the Tenderer, member of the partnership, person on whose capacity Tenderer is relying or subcontractor (powers of attorney, authorization agreements etc.) must be enclosed.
8.2.2.	The representative of the Tenderer, a member of a partnership, a person on whose capacity Tenderer relies, a subcontractor 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 or a member of a partnership, or a person on whose capacity Tenderer relies, or a subcontractor respectively.	<ul style="list-style-type: none"> - For a Tenderer, a member of a partnership, a person on whose capacity Tenderer relies, a subcontractor, which is a legal person registered in Latvia, the Contracting authority will verify the information itself in publicly available databases. - For a Tenderer, a member of a partnership, a person on whose capacity a Tenderer relies and subcontractor which is a legal person registered outside of Latvia, the Tenderer shall submit a document confirming the right of signature (representation) of the representative of the Tenderer, a member of a partnership, a person on whose capacity a Tenderer relies or subcontractor, who signs documents contained in the Proposal. - If the Tenderer, a member of a partnership, a person on whose capacity a Tenderer relies or subcontractor submits a power of attorney (original or a copy certified by the Tenderer) additionally there shall be submitted documents confirming that the issuer of the power of attorney has the right of signature (representation).

8.3 Economic and financial standing

No	Requirement	Documents to be submitted
8.3.1.	<p>The Tenderer's or all members of the partnership together (if the Tenderer is a partnership and confirms the average financial turnover jointly), average annual financial turnover within last 3 (three) years (2019, 2020, 2021) is not less than EUR 700 000,00 (seven hundred thousand euros) per year.</p> <p>In the event the average annual financial turnover of a limited partner of a limited partnership (within the meaning of the Commercial Law of the Republic of Latvia, Division X) exceeds its investment in the limited partnership, the average annual financial turnover shall be recognised in the amount of the investment in the limited partnership.</p> <p>In the event the Tenderer or a member of a partnership (if the Tenderer is a partnership) has operated in the market for less than 3 (three) years, the requirement shall be met during the Tenderer's actual operation period. For law firms that have been</p>	<ul style="list-style-type: none"> - Filled and signed Annex No 3 "Confirmation of Tenderer's financial standing" of the Regulations. - Audited or self-approved (if the annual financial statement is not required by the law of the country of residence of the Tenderer) annual financial statements for financial years 2019, 2020, 2021 or other document showing the turnover of the Tenderer or each member of the partnership on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially responsible for the fulfilment of the Framework agreement (if the Tenderer is a partnership), or other entity on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially responsible for the fulfilment of the Framework agreement. - For a limited partnership (within the meaning of the Commercial Law of the Republic of Latvia, Division X) - an additional document evidencing the amount of the investment by the limited partner (the partnership agreement or a document with a similarly binding legal effect).

<p>registered in the Commercial register in accordance with the procedures specified in the Commercial Law of the Republic of Latvia due to the amendments in the Advocacy Law of the Republic of Latvia, Section 116 (successors to rights and liabilities of such law firms which had been established until the day when amendments to Section 116 of Advocacy Law of the Republic of Latvia came into force), exception applies – their predecessor's average turnover will be recognized.</p>	<ul style="list-style-type: none"> - For law firms (within the meaning of the Advocacy Law of the Republic of Latvia, Section 116) – annual profit-loss statements for financial years 2019, 2020, 2021, showing their annual financial turnover. - If the previous 3 (three) reporting years of the Tenderer differ from the years specified in this Section 8.3.1 of the Regulations (2019, 2020, 2021), the financial turnover necessary must be indicated for the Tenderer's previous 3 (three) reporting years. - If the Proposal is submitted by a partnership, Tenderer shall indicate the member of the partnership on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Framework agreement including this information in the agreement of cooperation (or letter of intent to enter into agreement) stipulated in Section 8.2.1 of the Regulations. - If the Tenderer is relying on any other entity's capacity to certify its financial and economic performance and this entity will be financially and economically responsible for the fulfilment of the Framework agreement, Tenderer along with the Proposal submits confirmation or agreement on cooperation and/or passing of resources to the Tenderer, signed between such entity and the Tenderer (please see the Section 9 of the Regulations for detailed information).
<p>8.3.2. The Tenderer or at least one member of the partnership (if the Tenderer is a partnership) shall have a valid professional risk indemnity insurance with limit of liability in the amount of at least EUR 1 000 000 (one million euros) for any insurance claim and in the aggregate for the policy period with extended reporting period for at least 3 (three) years.</p>	<ul style="list-style-type: none"> - Documentation that proves its possession of a valid insurance certificate that meets requirements set in Section 8.3.2 of the Regulations or a written statement <u>of an insurance institution</u> specifying that in case the Tenderer will be awarded the Framework agreement, the insurance institution will issue the insurance certificate that meets requirements set in Section 8.3.2 of the Regulations.

8.4 Technical and professional ability (Team of key experts)

No	Requirement	Documents to be submitted
8.4.1.	<p>The Tenderer should propose a team consisting of key experts indicated in the Section 3.1 of the Technical specification. All positions mentioned in the Section 3.1 of the Technical specification must be covered.</p> <p>The Tenderer shall propose <u>one key expert for each country</u> (Latvia, Lithuania and Estonia) and <u>for each position</u> mentioned in the Section 3.1 of the Technical specification. The Tenderer can propose one key expert for several positions, if proposed expert meets the requirements for the specific position and it will not</p>	<ul style="list-style-type: none"> - Filled in Annex No 4 "Description of key expert's experience" of the Regulations, <u>signed by the relevant key expert</u>. - If one expert is proposed for more than one key expert position, separate description of key expert's experience (Annex No 4 of the Regulations) accompanied with complete set of other requested documents shall be submitted. - In case of doubts, the Procurement commission is entitled to request the Tenderer to submit contact information of the Client, so that the Procurement commission can check the compliance of the specified experience with the requirements.

No	Requirement	Documents to be submitted
	negatively affect the provision of the Services.	
8.4.2.	Each proposed key expert shall have English skills (at least C ₁ Level – based on Common European Framework of Reference for Languages ⁵) in understanding, speaking and writing	- Self-declared information about language skills filled in Annex No 4 "Description of key expert's experience" of the Regulations and <u>signed by the relevant key expert.</u>
8.4.3.	Each proposed key expert should have at least a Master's degree (or equivalent) in Law or Lawyer's qualification.	- Filled in Annex No 4 "Description of key expert's experience" of the Regulations, <u>signed by the relevant key expert.</u> - A copy of a diploma proving relevant level of education.
8.4.4.	In addition to the requirements stipulated in the Section 3.1 of the Technical specification, each proposed key expert should have at least 3 (three) years' work experience as Senior lawyer within the period of last 5 (five) years (from 2017 until the submission date of the Proposals). Proposed key expert will be considered as a Senior lawyer if she/he is a lawyer who: <ul style="list-style-type: none"> - as employee or self-employed person provides his/her services to the law firm or a company in the role of middle or senior manager (for example, a senior lawyer or a manager) or - he/she is holding a management position at state or municipal authority (for example, a head of a unit or department) or - he/she has the rights to pass autonomous decisions or - he/she is in charge of one or several employees or - he/she has right to delegate the tasks to other people or subordinates and to monitor how tasks are performed. 	- Filled in Annex No 4 "Description of key expert's experience" of the Regulations, <u>signed by the relevant key expert.</u>

8.5 Information, provided in the Proposal to prove the compliance with above-mentioned requirements for Economic and financial standing (Section 8.3 of the Regulations), Technical and professional ability (Section 8.4 of the Regulations) shall be clear and understandable without any additional analysis or external proof of the submitted information. The Procurement commission shall not be obliged to use additional sources of information to make a decision 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.

8.6 Statements and other documents issued by Latvian competent authorities in the cases referred to in Public Procurement Law shall be accepted and recognised by the Procurement commission if they have been issued not earlier than 1 (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 6 (six) months prior to the day of

⁵ Please see: <http://europass.cedefop.europa.eu/resources/european-language-levels-cefr>

submission, unless the issuer of the statement or the document has specified a shorter term of validity thereof.

9 RELIANCE ON THE CAPACITY OF OTHER PERSONS

- 9.1 For the fulfilment of the specific contract, to comply with the selection requirements for the Tenderers related to the economic and financial standing and technical and professional capacity (including regarding the team of key experts), 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 shall indicate in the Proposal all persons upon whose capacity it relies by filling in the table which is included in the Annex No 2 "Application for participation in the Procurement" of the Regulations and prove to the Contracting authority that the Tenderer will have available all the necessary resources for the fulfilment of contracts under the Framework agreement 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 with any other type of documents by which the Tenderer can prove that the necessary resources will be available to the Tenderer and will be used during the term of fulfilment of contracts under the Framework agreement.
 - 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 contracts under the Framework agreement, as well as that during the validity of the Framework agreement Tenderer will in fact use the resources of such person upon whose capacity it relies.
 - 9.1.3 The Contracting authority shall require joint and several liability for the execution of the Framework agreement between the:
 - 9.1.4 Tenderer and a person on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Framework agreement;
 - 9.1.5 Each member of the partnership (if the Tenderer is a partnership) on whose capacity Tenderer is relying and who will be financially and economically responsible for fulfilment of the Framework agreement.
- 9.2 Tenderer may rely on the capacity of other persons only if these persons will provide services that require the relevant capacity.

10 SUBCONTRACTING

- 10.1 The Tenderer shall indicate in the Proposal all subcontractors of the Tenderer by filling in the table which is included in the Annex No 2 "Application for participation in the Procurement" of the Regulations.

11 FINANCIAL PROPOSAL

- 11.1 The Financial proposal shall be indicated and submitted as part of the Annex No 2 "Application for participation in the Procurement" of the Regulations.
- 11.2 Tenderer shall indicate one blended hourly rate as remuneration for all Service lines indicated in the Section 3 of the Technical specification.
- 11.3 The proposed hourly rate shall be indicated in euro without VAT.
- 11.4 The proposed hourly rate must be calculated and indicated with an accuracy of 2 (two) decimal places after comma. If more than 2 (two) decimal places after comma will be indicated, then only the first two decimal places will be considered.
- 11.5 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, including but not limited to:
 - 11.5.1 visits to the Contracting authority (cost of business trips, time of consultants and daily allowance) (except costs to be reimbursed as specified in Section 4 of the Technical specification),
 - 11.5.2 field research,
 - 11.5.3 purchase of external materials and researches,

11.5.4 purchase of external experts if applicable.

- 11.6 The proposed hourly rate is fixed for all the term of the fulfilment of the Framework agreement and will not be recalculated, except in cases stipulated in the Framework agreement (if any).

12 TECHNICAL PROPOSAL

- 12.1 Tenderers shall submit a Technical proposal in accordance with this Section considering aspects in the Annex No 1 "Technical specification" of the Regulations. Technical proposal must contain at least the following:

12.1.1 analysis of the case study in accordance with the Section 11 of the Technical specification;

12.1.2 proposal for effectiveness of legal service provision to the Contracting authority in accordance with the Section 10 of the Technical specification.

- 12.2 Tenderer may gain additional points if the team of proposed key experts has additional experience indicated in the Section 20.3.1.2 of the Regulations.

13 CONTENTS AND FORM OF THE PROPOSAL

- 13.1 The Proposal must be submitted electronically on E-Tenders system of the Electronic Procurement System in accordance with the following options for the Tenderer:

13.1.1 by using the available tools of the E-Tender system, filling the attached forms of the E-Tender system for the Procurement;

13.1.2 by preparing and filling the necessary electronic documents outside the E-Tenders system 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);

13.1.3 by encrypting electronically prepared Proposal outside of the E-Tenders system with data protection tools provided by third parties, and protection with electronic key and password (in this situation, the 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).

- 13.2 During preparation of the Proposal, the Tenderer shall respect the following requirements:

13.2.1 Each document mentioned in Section 13.3 of the Regulations must be filled separately, each in a separate electronic document in line with forms attached to Procurement in a Microsoft Office 2010 (or later) format and attached to the designated part of the Procurement (<https://www.eis.gov.lv/EKEIS/Supplier/Procurement/88164>) on E-Tenders system;

13.2.2 Upon submission, the Tenderer must sign the Proposal with secure electronic signature and time-seal or with electronic signature provided by Electronic Procurement System. The Tenderer can use certified electronic signature⁶ and time-seal and sign each document mentioned in the Section 13.3 of the Regulations and other documents separately. The Proposal (its parts, if signed separately) shall be signed by authorized person, including authorization document (e.g. power of attorney) *expressis verbis* stating the authorisation to sign, submit and otherwise manage the documents.

- 13.3 Documents to be included in the Proposal:

13.3.1 Application for participation in the Procurement including the information about entities on whose capacity Tenderer is relying and Tenderer's subcontractors accompanied with relevant documents (please see the Section 9 and 10 of the Regulations; form enclosed as Annex No 2 of Regulations);

13.3.2 Information and documents confirming compliance of the Tenderer with the selection criteria for the Tenderers (please see the Section 8 of the Regulations; form enclosed as Annex No 3 and 4 of Regulations);

⁶ 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.

- 13.3.3 Financial proposal (please see the Section 11 of the Regulations; form enclosed as Annex No 2 of Regulations);
- 13.3.4 Technical proposal prepared in accordance with the Section 12 and the Annex No 1 of the Regulations;
- 13.3.5 Annex No 4 of the Regulations filled in and signed by the relevant key expert confirming the compliance of it with the evaluation criteria set in Section 20.3.1 of the Regulations (if applicable).
- 13.4 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. In order for the document to gain legal force it has to be issued and formatted in accordance with the Latvian 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/id/301436-dokumentu-izstradasanas-un-noformesanas-kartiba>). 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.
- 13.5 The Proposal must be signed by a person who is legally representing the Tenderer or is authorized to represent the Tenderer in this Procurement (please see the Section 8.2.2 of the Regulations).
- 13.6 The Tenderer shall prepare Proposal in electronic form using the E-Tenders system available on <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/88164>.
- 13.7 The Proposal must be submitted in a written form in English or Latvian (if submitted in Latvian, translation in English of the Proposal must be provided together with the Proposal). Upon request by the Procurement commission the Tenderer shall provide a translation in Latvian within the deadline requested by the Procurement commission.

14 ENCRYPTION OF THE PROPOSAL INFORMATION

- 14.1 E-Tender system which is a subsystem of the Electronic Procurement System ensures first level encryption of the information provided in the Proposal documents.
- 14.2 If the Tenderer applied additional encryption to the information in the Proposal (according to the Section 13.1.3 of the Regulations), the Tender 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.

15 SUBMISSION OF A PROPOSAL

- 15.1 The Proposal (documents referred to in the Section 13.3 of the Regulations) shall be submitted electronically using the E-Tenders system available on <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/88164> by:

10 October 2022 till 16:00 (Riga time).

- 15.2 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.
- 15.3 Only Proposals submitted on the 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.

16 OPENING OF PROPOSALS

- 16.1 The Proposals will be opened on the E-Tenders system on **10 October 2022 starting at 16:00** (Riga time) during the opening session. It is possible to follow the opening of submitted Proposals online on the E-Tenders system.
- 16.2 The Proposals will be opened by using the tools offered by the E-Tenders system. The proposed hourly rate and other information that characterizes the Proposal (excluding confidential information) will be published on the E-Tenders system.

- 16.3 The information regarding the Tenderer, the time of Proposal submission, the proposed hourly rate and other information that characterizes the Proposal is generated at the opening of the Proposals by the E-Tenders system and written down in the Proposal opening sheet which will be published on the E-Tenders system and Contracting authority's webpage.

17 VERIFICATION OF PROPOSALS FOR COMPLIANCE

- 17.1 Following of the opening of the Proposals the Procurement commission verifies the compliance of Proposals received. The Procurement commission evaluates the Proposals in closed sessions.
- 17.2 The Procurement commission verifies whether the submitted Proposals comply with the requirements stipulated in the Section 13 of the Regulations and whether all required information and documents are submitted and selects for further evaluation the compliant Proposals.
- 17.3 The Procurement commission verifies whether the Tenderers comply with the selection criteria stipulated in the Section 8.2. – 8.4 of the Regulations and selects compliant Tenderers for further evaluation.

18 VERIFICATION OF TECHNICAL PROPOSAL

- 18.1 The Procurement commission verifies whether the submitted Technical proposals comply with the requirements stipulated in Section 12 of the Regulations and Technical specification and selects for further evaluation the compliant Technical proposals.

19 VERIFICATION OF FINANCIAL PROPOSALS

- 19.1 The Procurement commission verifies whether Tenderers have filled-in the relevant part of the Annex No 2 "Application for participation in the Procurement" of the Regulations in accordance with the requirements.
- 19.2 The Procurement commission verifies whether there are any arithmetical errors, whether an abnormally low Proposal has been received, as well as assesses and compares the hourly rates proposed.
- 19.3 The Procurement commission informs the Tenderer whose arithmetical errors have been corrected about the correction of arithmetical errors and the corrected financial proposal.
- 19.4 When evaluating the financial proposal, the Procurement commission takes corrections into account.
- 19.5 The Procurement commission has the right to demand that the Tenderer explains the calculation upon which the financial proposal is based and other related aspects in order to ascertain the objectivity of the financial proposal and whether an abnormally low Proposal has been submitted.
- 19.6 The Procurement commission further evaluates the compliant Proposals which have not been declared as abnormally low proposals.

20 FRAMEWORK AGREEMENT AWARD CRITERIA

- 20.1 The Proposal selection criterion is the most economically advantageous proposal according to the evaluation methodology described in this Section below.
- 20.2 The economically most advantageous proposal shall be the Proposal which will receive the highest sum of scores for the following criteria:

No.	Evaluation criteria	Maximum points
20.2.1	Quality of the Technical proposal , which will be evaluated in accordance with the Section 20.3 of the Regulations	60
	<i>a) Additional experience of proposed key experts</i>	41
	<i>b) Improvements for effectiveness of legal service provision to the Contracting authority</i>	10
	<i>c) Case study</i>	9

20.2.2	Proposed hourly rate mentioned in the Section 11.2 of the Regulations, which will be evaluated in accordance with the Section 20.4 of the Regulations	40
Total		100

20.3 Evaluation of the quality of the Technical proposal

20.3.1 Evaluation of the additional experience of proposed key experts

- 20.3.1.1 Every proposed key expert shall be evaluated based on his/her experience that is above the minimum of the qualification criteria.
- 20.3.1.2 Only the following experience, which exceeds the minimum experience that is requested in the Section 8.4 and the Section 3.1 of the Technical specification shall be awarded with points according to the following sub-criteria and methodology:

No	Criteria	Points	Max points
a)	For each key expert's experience ⁷ in every additional completed project satisfying the minimal qualification requirements stipulated in the Section 3.1 of the Technical specification. - Maximum points in one service line per country – 2 points; - Maximums points per one service line together – 6 points.	1	36
b)	At least one Construction, Real Estate and Environmental Law Expert has at least one completed project that meets the minimum requirements for Construction, Real Estate and Environmental Law Expert experience stipulated in the Section 3.1 of the Technical specification and this project involved FIDIC standards (as described in Section 3.2, Sub-Section 1 of the Technical specification).	5	5
TOTAL:			41

- 20.3.1.3 The Procurement commission shall obtain the final score for each Technical proposal in this criteria by summing up all points obtained by the particular Technical proposal in this criteria and dividing the sum with the number of members of the Procurement commission which participated in the evaluation of the Technical proposals. The result shall be used as the points for the particular Technical proposal for the purposes of Section 20.5 of the Regulations.

20.3.2 Evaluation of the improvements for effectiveness of legal service provision to the Contracting authority

- 20.3.2.1 Improvements for effectiveness of legal service provision to the Contracting authority (hereinafter – Proposal for Improvements) will be evaluated according to the following criteria:

No	Criteria	Points
1	Outstanding level of detail The content of the Proposal for Improvements conforms with the Technical specification, it is highly detailed and well-structured. Proposal contains description of methods for improvement of effectiveness of the Contracting authority's work, the description of proposed methods for improvement of effectiveness offers several types (>3) of efficiency improvements, which has been clearly and comprehensively described. The Tenderer has proved clear and detailed description of its previous experience in implementing all above mentioned methods for improvement of effectiveness and benefits	10

⁷ For additional experience of the Corporate Governance Expert, Employment Law Expert, Construction, Real Estate and Environment Law Expert, Public Procurement Law Expert, Competition Law and State Aid Expert or Dispute Resolution Expert.

No	Criteria	Points
	for the Contracting authority of implementing proposed efficiency improvement methods are clear and well-described.	
2	High level of detail The content of the Proposal for Improvements conforms with the Technical specification, it is detailed and well-structured. Proposal contains description of methods for improvement of effectiveness of the Contracting authority's work, the description of proposed methods for improvement of effectiveness offers some types (1 - 3) of efficiency improvements, which has been clearly and comprehensively described. The Tenderer has proved clear and detailed description of its previous experience in implementing all above mentioned methods for improvement of effectiveness and benefits for the Contracting authority of implementing proposed efficiency improvement methods are mostly clear and well-described.	5
3	Low level of details The content of the Proposal for Improvements conforms with the Technical specification, but it is not detailed and/or not well-structured. Only basic description of methods for improvement of effectiveness is provided. The description of proposed methods of effectiveness offers some types (1 - 3) of efficiency improvements, but they have not been clearly and comprehensively described. The Tenderer has proved description of its previous experience in implementing some of above-mentioned methods for improvement of effectiveness and/or benefits for the Contracting authority of implementing proposed efficiency improvement methods are not clear and/or not well-described.	2

20.3.2.2 If at least one of conditions mentioned under description of criteria No 1 listed above is not met, the Procurement commission shall evaluate and score the Proposal according to the methodology (description) of next (lower) level continuing till the level No 3. If the Proposal does not meet all conditions under the criteria No 3, proposal doesn't receive any additional points under sub - criteria "Improvements for effectiveness of legal service provisions to the Contracting authority".

20.3.2.3 The Procurement commission shall obtain the final score for each Technical proposal in this criteria by summing up all points obtained by the particular Technical proposal in this criteria and dividing the sum with the number of members of the Procurement commission which participated in the evaluation of the Technical proposals. The result shall be used as the points for the particular Technical proposal for the purposes of Section 20.5 of the Regulations.

20.3.3 Evaluation of the Case study

20.3.3.1 **The Case study** will be evaluated according to the following criteria:

No	Criteria	Points
1	Outstanding level of detail The Tenderer has offered well-structured and detailed solutions, the solutions are based on corresponding legal acts and relevant case law.	9
2	High level of detail The Tenderer has offered well-structured and detailed solutions, the solutions are based on corresponding legal acts.	5
3	Low level of details The Tenderer has provided structured, but not sufficiently detailed solutions, the solutions are based on some corresponding legal acts and/or case law, and/or it exceeds required length.	2

20.3.3.2 If at least one of conditions mentioned under description of criteria No 1 listed above is not met, the Procurement commission shall evaluate and score the Proposal according to the methodology (description) of next (lower) level continuing till the criteria No 3. If the proposal does not meet all conditions under the criteria No 3, proposal does not receive any additional points under sub - criteria "Case study".

20.3.3.3 The Procurement commission shall obtain the final score for each Technical proposal in this criteria by summing up all points obtained by the particular Technical proposal in this criteria and dividing the sum with the number of members of the Procurement commission which participated in the evaluation of the Case study analysis. The result shall be used as the points for the particular Technical proposal for the purposes of Section 20.5 of the Regulations.

20.4 Evaluation of the proposed hourly rate mentioned in the Section 11.2 of the Regulations

20.4.2 The Proposal will receive points for **proposed hourly rate mentioned in the Section 11.2 of the Regulations** in accordance with following formula:

$$\text{points} = \frac{\text{lowest proposed hourly rate from the compliant proposals}}{\text{Tenderer's proposed hourly rate}} \times 40$$

20.5 The Procurement commission shall sum up the points obtained by each Proposal by summing up all points that particular Proposal obtained in accordance with the procedures set out in Section 20.3 – 20.4 of the Regulations and dividing by the number of members of Procurement commission participated in the evaluation. The points obtained are calculated and indicated with an accuracy of 2 (two) decimal places after comma. The Framework agreement will be awarded up to the 3 (three) Tenderers whose Proposals obtain the highest final score according to Section 20.2 – 20.5 of the Regulations.

20.6 In case several Tenderers will obtain equal number of points, the Procurement commission will award the right to conclude the Framework agreement to the Tenderer which has obtained higher score for its Technical proposal. If also this score will be equal, then the Procurement commission will award the right to conclude the Framework agreement to the Tenderer which has obtained higher score for additional experience of its proposed key experts (Section 20.2.1, Sub-Section a) of the Regulations). If also this score will be equal, then the Procurement commission will invite representatives of those particular Tenderers and organize a draw. In situation, when representatives of Tenderers chose to not be present at the draw, the Procurement commission will carry out the draw without representatives of Tenderers presence by inviting impartial participant from the Contracting authority.

21 TENDERER CHECK PRIOR TO MAKING THE DECISION REGARDING THE CONCLUSION OF THE FRAMEWORK AGREEMENT

21.1 Prior to making the decision about assigning rights to conclude the Framework agreement, the Procurement commission performs a check regarding the existence of grounds of exclusion stipulated in the Section 8.1 of the Regulations for Tenderer and members of a partnership (if the Tenderer is a partnership). The Tenderer should provide all the necessary evidence upon the Procurement commission request regarding check of exclusion grounds mentioned above.

21.2 If the Tenderer fails to submit required evidence before the deadline, the Procurement commission excludes the Tenderer from participation in the Procurement.

22 DECISION MAKING, ANNOUNCEMENT OF RESULTS AND ENTERING INTO A FRAMEWORK AGREEMENT

22.1 The Procurement commission selects the Tenderers in accordance with the set selection criteria for Tenderers, verifies the compliance of the Proposals with the requirements stipulated in the Regulations and chooses the Proposals in accordance with the Framework agreement award criteria as described in the Section 20 of the Regulations. Up to the 3 (three) Tenderers whose Proposals will receive the highest score shall be selected.

22.2 Within 3 (three) business days from the date of decision about the Procurement results the Procurement commission informs all the Tenderers about the decision made by sending the information by post or electronically (including on 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 chosen Tenderer/-s, indicating:

- 22.2.1 to the rejected Tenderer - the reasons for rejecting its Proposal;
- 22.2.2 to the Tenderer who has submitted compliant Proposal - the characterization of the chosen Proposal/s and the relative advantages;
- 22.2.3 the deadline by which the Tenderer may submit a complaint to the Procurement Monitoring Bureau regarding violations of the public procurement procedure.
- 22.3 If the Procurement is terminated, the Procurement commission within 3 (three) business days simultaneously informs all Tenderers about all the reasons because of which the Procurement is terminated and informs about the deadline within which a Tenderer may submit an application regarding the violations of the public procurement procedure to the Procurement Monitoring Bureau.
- 22.4 The Procurement commission when informing about 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.
- 22.5 The selected Tenderer upon receiving the notification from the Procurement commission must:
 - 22.5.1 within 5 (five) business days - to submit to the Contracting authority a copy of a partnership agreement or notification regarding the establishment of the partnership, if required pursuant to requirements under the Section 7.1.2.1 of the Regulations;
 - 22.5.2 within 5 (five) business days - to submit to the Contracting authority a copy of a valid professional risk indemnity insurance that meets the requirements stipulated in the Section 8.3.2 of the regulations. The professional risk indemnity insurance shall be with limit of liability of at least 1 000 000,00 EUR (one million euro) per claim and in the aggregate for the policy period covering all experts mentioned in Proposal with extended reporting period for at least 3 (three) years.
 - 22.5.3 within 10 (ten) days from receiving the invitation - to sign the Framework agreement.
- 22.6 The Framework agreement will be concluded on the basis of the selected Tenderer's/-s' Proposal/-s and in accordance with the Annex No 5 "Draft Framework agreement" of the Regulations.
- 22.7 The Procurement commission has the right to choose the next most economically advantageous Proposal, if the Tenderer in the time stipulated by the Regulations:
 - 22.7.1 refuses to conclude a partnership agreement or to 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 agreement or does not inform of the founding of a partnership company;
 - 22.7.2 does not submit a valid professional risk indemnity insurance as stipulated in Section 22.5.2 of the Regulations;
 - 22.7.3 refuses to conclude the Framework agreement or does not submit a signed Framework agreement within the deadlines defined in the Regulations.
- 22.8 In any of such cases mentioned in the Section 22.7 of the Regulations, the Procurement commission is entitled to terminate the Procurement without selecting any Proposal or to select the Proposal with the next most economically advantageous proposal. For either of these decisions a written decision must be made.
- 22.9 Prior to making the decision regarding the conclusion of the Framework agreement 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, the Procurement commission makes a decision to terminate the Procurement without selecting any Proposal. 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 22.7 of the Regulations, the Procurement commission decides to terminate the Procurement without selecting any Proposal.

23 ANNEXES

1. Annex No 1 – Technical specification on 12 (twelve) sheets;
2. Annex No 2 – Application for participation in the Procurement (form) on 3 (three) sheets;
3. Annex No 3 – Confirmation of the Tenderer's financial standing (form) on 1 (one) sheet;
4. Annex No 4 – Description of the key expert's experience (form) on 8 (eight) sheets;

5. Annex No 5 – Draft Framework agreement on 28 (twenty-eight) sheets.

ANNEX NO 1: TECHNICAL SPECIFICATION

TECHNICAL SPECIFICATION FOR THE PROCUREMENT
"LEGAL SERVICES"
(ID NO RBR 2022/23)



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

Riga
2022

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.

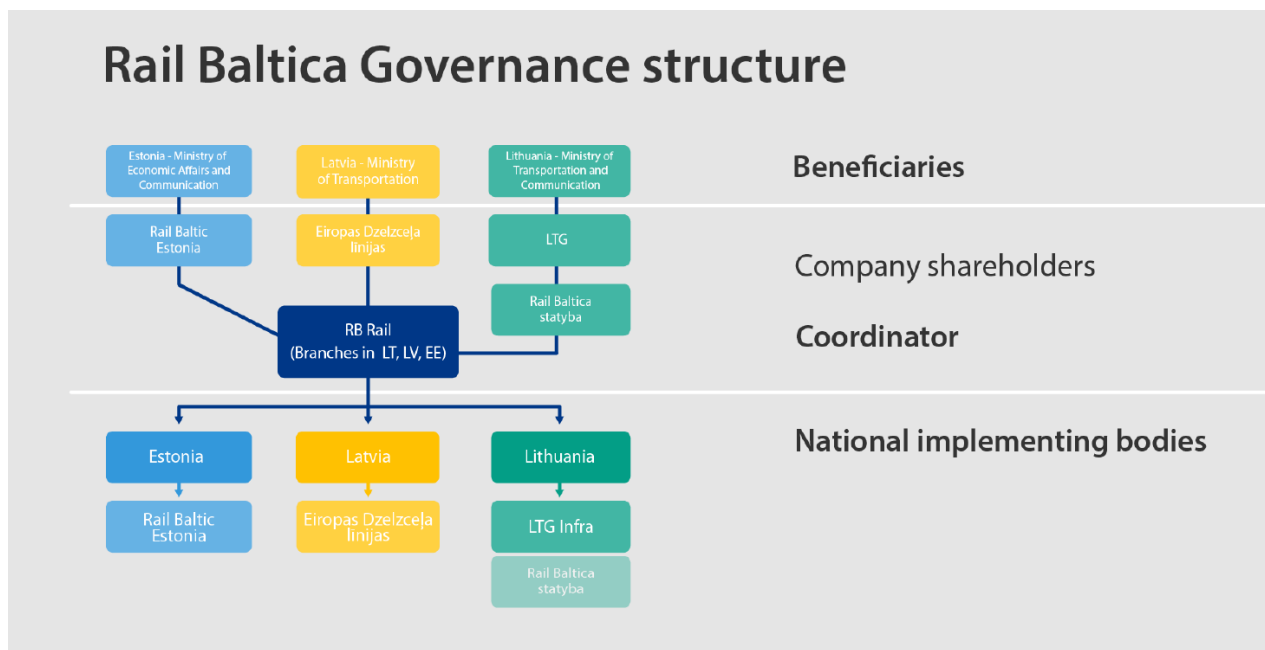
The ambitions of the Rail Baltica Global project (Global Project) are:

- 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 2015-2022 (seven applications in total). The applications were successful and six CINEA grants under the Connecting Europe Facility 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. SUPPORT FROM EXPERTS

2.1 The Contracting authority is seeking to establish a list of experienced legal advisors (“**Panel of law firms**”) to provide legal services to the Contracting authority on various legal matters in Estonia, Latvia and Lithuania. All legal services are to be delivered in English as a primary language and in Latvian and/or Lithuanian and/or Estonian. Please see below a detailed list of services required by service lines (“**Service lines**”):

No	Service line	Description of the services
1	Corporate governance	<ul style="list-style-type: none"> - Advising on company formation, winding-up/dissolution and liquidation - Advising on disposals, mergers and reorganizations - Advising on management buyouts and leveraged buyouts - Advising on joint ventures and partnership related issues

		<ul style="list-style-type: none"> - Corporate governance - Corporate financing matters - Advising on the responsibilities of the Management Board - Due diligence (corporate law matters) - Corporate dispute resolution - Other related services
2	Employment law	<ul style="list-style-type: none"> - Employment contracts - Collective agreements and trade unions - Executive compensation and benefits - Outsourcing - Labour dispute resolution - Employment of foreign nationals - Other related services
3	Construction, Real Estate and Environment	<ul style="list-style-type: none"> - Advising on construction project development and detailed planning - Advising on construction contracts - Construction supervision - Advising on real estate matters - Advising on planning, zoning and building rights - Advising on regulatory compliance - Advising on commercial lease - Advising on mortgages and other encumbrances - Real estate due diligence - Advising on legal compliance with environment law - Construction, real estate and environment dispute resolution - Other related services
4	Public Procurement	<ul style="list-style-type: none"> - Legal advice and support on public procurement process structuring - Legal advice for the organizing public Procurement procedures - Legal support with drafting of public procurement contracts and development of tender documentation - Legal support with respect to review draft tender documentation (regulations, terms of reference (technical specification), contracts etc.), including checking of compliance with the applicable laws - Legal advice on collateral and guaranties structures - Advising and representation of the Contracting authority for procurement law and/or other legal matters related to procurement procedures

		<ul style="list-style-type: none"> - Assistance with organizing public Procurement procedures - Legal support with respect to public procurement process related disputes - Legal support with respect to implementation and enforcement of public procurement contracts - Drafting legal opinions regarding public procurement issues - Advice on Public Procurement Law interpretation and implementation. - Other related services
5	Competition Law and State Aid	<ul style="list-style-type: none"> - Advising on horizontal and vertical agreements - Advising on abuse of dominance - Advising on compliance - Advising on State Aid - Competition dispute resolution - Other related services
6	Dispute resolution	<ul style="list-style-type: none"> - Administrative disputes and proceedings - Civil disputes and proceedings - Representation in the prejudicial proceeding - Alternative dispute resolution methods - Other related services <p><i>Please note that representation in arbitration proceedings is not included in the scope of this or any other service line!</i></p>

3. KEY EXPERTS FOR SERVICE LINES

- 3.1 The entrusted assignments shall be carried out by key experts who comply with the minimum qualification criteria stipulated in Section 8.4 of the Procurement Regulations and in the table below. The Tenderer shall propose team of listed key experts for each country – Latvia, Lithuania and Estonia. The Tenderer can propose one key expert for several positions, if proposed expert meets the requirements for the specific position and it will not negatively affect the provision of the Services. By submitting a Proposal, the Tenderer confirms that expert has the required professional experience and he/she has participated in projects, that complies with the requirements of table below. In submitted Proposal the Tenderer should name the projects where the key expert, **has participated as a lead expert** of a corresponding Service line during the specified period. Participation of the key expert in a project means full responsibility (*any kind of assisting role shall not be considered as sufficient to satisfy project experience requirements*) throughout the full project implementation period on important matters directly related to a Service line the expert is applying for. The Contracting authority reserves the right to request copies of documentation of the particular project proving the key expert's role in a project and the responsibilities covered.

The Tenderer shall ensure the availability of at least the following key experts in each of the given Service lines:

1 Corporate governance

Corporate Governance Expert meeting the following minimal project experience requirements (please note that the requirements for expert in Latvia differ from the requirements for experts in Estonia and Lithuania):

	<p>For expert in Latvia</p> <p>Within the last 5 (five) years (from 2017 until the proposal submission date) the Corporate Governance Expert has gained experience at least in 3 (three) projects, which each meet one of the following criteria:</p> <ol style="list-style-type: none"> 1) the expert as lead corporate law expert has provided regular services on corporate governance issues for a period of at least <u>one calendar year</u> at least 150 (one hundred fifty) billable hours during the mentioned time period or legal fee for this period was equal to or higher than 15 000 EUR, excluding VAT, and services was provided for a public limited liability (AS-type) company or 2) the expert as lead corporate law expert has provided legal services in cases of cross-border* mergers, demergers, spin-offs and/or reorganizations and: <ol style="list-style-type: none"> a) the legal fee for case of cross-border* mergers, demergers, spin-offs and/or reorganizations was equal to or higher than 30 000 EUR, excluding VAT or b) legal services for case of cross-border* mergers, demergers, spin-offs and/or reorganizations, including but not limited with corporate law services, were provided for at least 300 (three hundred) billable hours. <p>* Cross-border means that at least two of involved legal persons are registered in two different countries and at least one is registered in the European Union.</p> <p>For expert in Estonia and Lithuania</p> <p>Within the last 5 (five) years (from 2017 until the proposal submission date) the Corporate Governance Expert has gained experience at least in 3 (three) projects, which each meets the following criteria: the expert as a corporate law expert has provided regular services to a client being a company registered in the respective country on corporate and/or corporate governance matters for a period of at least <u>one calendar year</u> at least 50 (fifty) billable hours during the mentioned time period or legal fee for this period was equal to or higher than 5 000 EUR.</p>
2	Employment law
	Employment Law Expert meeting the following minimal project experience requirements:
	<p>Within the last 5 (five) years (from 2017 until the proposal submission date) the Employment Law Expert has gained experience in at least 3 (three) projects, which each meet one of the following criteria:</p> <ol style="list-style-type: none"> 1) the expert as a lead employment law expert has provided regular employment law advice during <u>one calendar year</u> to at least 3 (three) companies, and <ol style="list-style-type: none"> a) legal fees for the provided services for all 3 companies together were equal to or higher than 20 000 EUR, excluding VAT (every twelve months) or b) employment law advice was provided for at least 200 (two hundred) billable hours for all 3 companies together (every twelve month) or 2) the expert as a lead employment law expert has represented the client in the employment law dispute and <ol style="list-style-type: none"> a) legal fee for the provided services was equal to or higher than 10 000 EUR, excluding VAT, or b) services were provided for at least 100 (one hundred) billable hours. or 3) the expert as a lead employment law expert has provided legal services in case of company formation, winding-up and liquidation, company disposals, mergers and reorganizations and <ol style="list-style-type: none"> a) the legal fee for each case mentioned before (included but not limited with employment law services) was equal to or higher than 30 000 EUR, excluding VAT, or b) legal services in each case of company formation, winding-up and liquidation, company disposals, mergers and reorganizations, including but not limited with employment law services, were provided for at least 300 (three hundred) billable hours.
3	Construction, Real Estate and Environment
	Construction, Real Estate and Environment Law Expert meeting the following minimal project experience requirements:

	<p>Within the last 5 (five) years (from 2017 until the proposal submission date) the Construction, Real Estate and Environment Law Expert has gained experience in at least 3 (three) projects, which each meet one of the <u>following criteria</u>:</p> <ol style="list-style-type: none"> 1) has advised in construction and/or design contract drafting and/or negotiation and <ol style="list-style-type: none"> a) legal services were provided for not less than 200 (two hundred) billable hours for the case or b) legal fee for the provided services in the case was equal or higher than 20 000 EUR, excluding VAT, or 2) has been representative of the client in the construction and/or design contract claims or litigation/arbitration process and <ol style="list-style-type: none"> a) legal services were provided for not less than 200 (two hundred) billable hours for the case or b) legal fee for the provided services in the case was equal or higher than 20 000 EUR, excluding VAT.
4	Public Procurement
	<p>Public Procurement Law Expert meeting the following minimal project experience requirements (please note that the requirements for expert in Latvia differ from the requirements for experts in Estonia and Lithuania):</p>
	<p>For expert in Latvia</p> <p>Within the last 5 (five) years (from 2017 until the proposal submission date) the Public Procurement Law Expert has gained experience in at least 3 (three) projects, which each meet one of the <u>following criteria</u>:</p> <ol style="list-style-type: none"> 1) has provided consultations for drafting or has drafted public procurement documents (regulations and/or technical specification) and/or has ensured activities of the procurement commission for a tender published according to the national law and: <ol style="list-style-type: none"> a) a procurement contract price for such procurement was equal or higher than 750,000 EUR, excluding VAT, b) tender was finished with the procurement commission decision to award a contract (the Decision), c) an appeal time of the Decision has expired and d) if the Decision has been appealed, the Procurement Monitoring Bureau/court has declared this appeal ungrounded or 2) has represented a contracting authority or a tenderer in the public procurement dispute in the national Procurement Monitoring Bureau and/or court and: <ol style="list-style-type: none"> a) a decision on the dispute has been taken in favour of a client, b) a decision has come into force and c) a procurement contract price for such procurement was equal or higher than 750,000 EUR, excluding VAT. <p>For expert in Estonia and Lithuania</p> <p>Within the last 5 (five) years (from 2017 until the proposal submission date) the Public Procurement Law Expert has gained experience in at least 1 (one) project, which each meet one of the <u>following criteria</u>:</p> <ol style="list-style-type: none"> 1) has provided consultations for drafting or has drafted public procurement documents (regulations and/or technical specification) and/or has ensured activities of the procurement commission for a tender published according to the national law and: <ol style="list-style-type: none"> a) a procurement contract price for such procurement was equal or higher than 750,000 EUR, excluding VAT, b) tender was finished with the decision to award a contract (the Decision), c) an appeal time of the Decision has expired and d) if the Decision has been appealed, the relevant supervisory authority/court has declared this appeal ungrounded or 2) has represented a contracting authority or a tenderer in the public procurement dispute in the national Procurement Monitoring Bureau and/or court and: <ol style="list-style-type: none"> a) a decision on the dispute has been taken in favour of a client, b) a decision has come into force and

	c) a procurement contract price for such procurement was equal or higher than 750,000 EUR, excluding VAT.
5 Competition Law and State Aid	
Competition Law and State Aid Expert meeting the following minimal project experience requirements (please note that the requirements for expert in Latvia differ from the requirements for experts in Estonia and Lithuania):	
	<p>For expert in Latvia</p> <p>Within the last 5 (five) years (from 2017 until the proposal submission date) the Competition Law and State Aid Expert has gained experience in at least 3 (three) projects, which each meet one of the <u>following criteria</u>:</p> <ol style="list-style-type: none"> 1) has advised the client on state aid and: <ol style="list-style-type: none"> a) services were provided for no less than 50 billable hours for the case or b) legal fee for the provided services in the case was equal or higher than 5 000 EUR, excluding VAT, or 2) has advised and represented the client in the competition law dispute in Competition Counsel and/or court and: <ol style="list-style-type: none"> a) legal services were provided for no less than 100 billable hours for the case or b) legal fee for the provided services in the case was equal or higher than EUR 10 000, excluding VAT, or 3) has prepared 2 (two) separate notifications to the Competition Council on the merger and the Competition Council has allowed to merge companies in both cases. <p>For expert in Estonia and Lithuania</p> <p>Within the last 5 (five) years (from 2017 until the proposal submission date) the Competition Law and State Aid Expert has gained experience in at least 1 (one) project, which each meet one of the <u>following criteria</u>:</p> <ol style="list-style-type: none"> 1) has advised the client on state aid and: <ol style="list-style-type: none"> a) services were provided for no less than 50 billable hours for the case or b) legal fee for the provided services in the case was equal or higher than 5 000 EUR, excluding VAT, or 2) has prepared notification to the Competition Council on the merger and the Competition Council has allowed the merger, 3) has advised on other competition law matters and/or represented the client in the competition law dispute in Competition Counsel and/or court and: <ol style="list-style-type: none"> a) legal services were provided for no less than 100 billable hours for the case or b) legal fee for the provided services in the case was equal or higher than EUR 10 000, excluding VAT.
6 Dispute Resolution	
Dispute Resolution Expert meeting the following minimal project experience requirements:	
	<p>Within the last 5 (five) years (from 2017 until the proposal submission date) the Dispute Resolution Expert has gained experience in at least 3 (three) projects, which each meet one of the <u>following criteria</u>:</p> <ol style="list-style-type: none"> 1) has advised and represented client in the civil proceeding in the court and: <ol style="list-style-type: none"> a) legal services were provided for no less than 100 billable hours for the case or b) legal fee for the provided services in the case was equal or higher than 10 000 EUR, excluding VAT, or 2) has advised and represented the client in the administrative proceeding in court and: <ol style="list-style-type: none"> a) legal services were provided for no less than 50 billable hours for the case or b) legal fee for the provided services in the case was equal or higher than 5 000 EUR, excluding VAT.

	The Dispute Resolution Expert shall have at least one project experience in each of criteria – experience in civil proceeding and administrative proceeding.
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- 3.2 The Tenderer may receive additional points for proposed key experts experience in accordance with the requirements stipulated in the Section 20 of the Regulations. *Inter alia*, the Tenderer may receive additional points for following experts' experience:

1 Additional experience of the Construction, Real Estate and Environmental Law Expert

Tenderer can receive 5 points if it proposes at least one Construction, Real Estate and Environmental Law Expert who has at least one completed project that meets the minimum requirements for Construction, Real Estate and Environmental Law Expert experience stipulated in the Section 3.1 of the Technical specification and this project involved FIDIC standards.

- 3.3 The Tenderer is not allowed to change its key experts during the execution of the Framework agreement without the prior written approval of the Contracting authority. The Contracting authority is only allowed to grant an approval for such a change if the new expert meets all the same qualification criteria as the expert to be substituted.
- 3.4 The Contracting authority reserves the right to request the Tenderer to replace any involved expert in case of any of the following reasons:
- 3.4.1 repeated careless performance of duties;
 - 3.4.2 incompetence or negligence;
 - 3.4.3 non-fulfilment of obligations or duties stipulated in the Framework agreement;
 - 3.4.4 poor knowledge of English language (unsatisfactory presentation, writing skills in English);
 - 3.4.5 termination of employment relations or cooperation agreement with the Tenderer.
- 3.5 Failure of the Tenderer to propose another expert with equivalent or better qualifications might lead to the termination of the Framework agreement.

4. REIMBURSEMENT OF TRAVEL EXPENSES

- 4.1 In case the Contracting authority for the implementation of a specific instance of service that is procured by the Contracting authority in accordance with the Framework agreement ("Assignment") requires an expert to travel from his/her place of residence or Tenderer's office (whatever is applicable) for more than 200 km one way, the Contracting authority shall reimburse incurred travel⁸ expenses and pay for accommodation (only when the implementation of the Assignment requires overnight stay and the hotel will be chosen by the Contracting authority) for every expert included in a particular Assignment.
- 4.2 For the implementation of a particular Assignment where traveling is included, the Expert shall ensure average level economical travel and accommodation expenses.
- 4.3 The following travel expenses are subject to reimbursement:
- 4.3.1 Bus travel - for a distance of less than 400 km one way;
 - 4.3.2 Second-class rail travel - for a distance of less than 400 km one way;
 - 4.3.3 Economy class air travel - for a distance of more than 400 km one way;
 - 4.3.4 A travel expense in total (including but not limited to a return ticket) shall not exceed 500 EUR. Travel expense exceeding 500 EUR will be reimbursed at 500 EUR max.
- 4.4 The Contracting authority does not cover other expenditure, including but not limited to daily allowance, meals, local transport, sundry expenses, as well as accident insurance.

5. OBLIGATIONS OF TENDERER AND EXPERTS INCLUDED IN THE PROPOSAL

- 5.1. By accepting to be included in the Proposals, each expert confirms his/her availability and intention to perform the necessary occasional, short-term Assignments defined by the Contracting authority in a fully professional manner.

⁸ The point of departure shall be limited to the location in Europe.

- 5.2. Tenderers (including their corresponding experts) shall remain fully responsible for the results of their services after the completion of an Assignment. Any additional expenses arisen due to the correction of the unacceptable results shall be covered solely by the Tenderer concerned. On reasonable grounds the Contracting authority reserves the right to request a particular Tenderer (including their corresponding experts) to correct the results of its services regardless of whether it is necessary during the implementation of a particular Assignment or after it was completed and approved.
- 5.3. During the provision of the services Tenderer is not allowed to appoint another expert (even included in the Proposal's another Service line) as a lead expert to implement the Assignment. During the provision of the services Tenderer is allowed to appoint another expert as expert to implement the Assignment with prior approval of the Contracting authority.
- 5.4. If the Contracting authority finds (at any time of Procurement process or during the implementation of the Framework agreement) that provided information on education, experience on a particular expert is false, the concerned expert shall be eliminated from the Procurement process or from the Framework agreement and must be replaced in accordance with Framework agreement and Public Procurement Law (whatever is applicable).

6. CONFIDENTIALITY, INDEPENDENCE AND ABSENCE OF CONFLICT OF INTEREST

- 6.1. All Tenderers (including their corresponding experts) are expected to ensure that their contractual and professional obligations in particular with regard to confidentiality, independence and absence of conflict of interests are well understood and upheld throughout and after the implementation of any Assignment.
- 6.2. Experts shall remain independent from any activities of other parties, companies, or organisations whatsoever directly acting against the Contracting authority (including but not limited to litigation and procedures for examination of complaints according to the Public Procurement Law) and shall avoid any legally binding relations or any other kind of relations with such parties.

7. DURATION OF THE FRAMEWORK AGREEMENT

- 7.1. The Framework agreement at present is expected to enter into force in the last quarter of 2022. The Framework agreement term will have following conditions: the Framework agreement shall be signed for 24 (twenty-four) months from the Commencement date or until the maximum Framework agreement amount is reached. There will be an option to extend the term of the Framework agreement for another 1 year if the contract amount will not be reached within the initial period. The volume of work under Framework agreement is not precisely predictable and cannot be quantified reliably.
- 7.2. The Contracting authority reserves the right to terminate the Framework agreement at any time in the event of a Tenderers' failure to meet the obligations of legal services and legal services quality stated in order form and generally expected for ready to use documents or when services of the Tenderer are no longer required.

8. RANKING AND AWARD OF ASSIGNMENTS

- 8.1. The contracts offered will be multiple framework agreements. After completion of the tender, the Contracting authority will choose up to 3 (three) Tenderers to the Panel of law firms that will be offered to sign a standard Framework agreement. A list of the Tenderers will be drawn up in descending order according to the marks obtained on the basis of award criteria.
- 8.2. The shortlisted Tenderers (Panel of law firms) will not have an exclusive right to provide legal services to the Contracting authority under the Framework agreement. Subject to the provisions of the Framework agreement, the Contracting authority reserves the right either to hold a mini-competition between the selected Tenderers or to award an Assignment directly to a selected Tenderer.
- 8.3. In case of direct award, the Contracting authority shall invite one Tenderer to implement an Assignment by sending a Request for Assignment describing the details of the planned Assignment.
- 8.4. If the invited Tenderer does not reply within 1 (one) business day (unless otherwise specified in the Request for Assignment), the Contracting authority may offer the work to the other Tenderer from Panel of law firms.
- 8.5. In case of mini-competition, the Contracting authority shall invite all Tenderers to participate in a mini-competition and provide proposals for the implementation of a particular assignment. The most economically advantageous proposal shall be selected to implement the Assignment.

- 8.6. The Contracting authority will regularly review the quality of delivered Assignments and the cooperation with the Tenderers. Please see Section 9 "Quality Requirements of the Completed Assignments". In cases mentioned in "Quality Requirements of the Completed Assignments", the Contracting authority reserves the right to not invite a Tenderer to participate in a mini-competition or do not award an Assignment directly. This is done to ensure a high degree of quality and consistency.
- 8.7. The selection between the direct award or conduct of mini-competition shall remain within the discretion of the Contracting authority considering the specifics and urgency, nature of a particular Assignment, link to prior and similar Assignments and possibility to separate new Assignment from prior and similar Assignments, complexity of the Assignment, the planned fees for the provision of the particular Assignment, or other interests of the Company, etc.

9. QUALITY REQUIREMENTS OF THE COMPLETED ASSIGNMENTS

- 9.1. All completed and delivered Assignments must be of such quality as to require no further correction by the Contracting authority. The Tenderer must ensure, inter alia, that all specific instructions from the Contracting authority are followed, that the Assignment is complete, accurate and consistent and that the agreed deadline is respected scrupulously. Each Assignment may be assessed by the Contracting authority. This assessment in no way diminishes the Tenderer's obligation to ensure that all assignments can be used as sent, without any further revision or correction by the Contracting authority.
- 9.2. The Contracting authority shall measure all completed assignments by using following Key Performance Indicators:
 - 9.2.1. **QUALITY** if the quality of the Assignment is assessed as being of an:
 - 9.2.1.1. high standard (+3),
 - 9.2.1.2. good standards (+2),
 - 9.2.1.3. poor standard (+1);
 - 9.2.2. **DEADLINES:**
 - 9.2.2.1. clearly set timescale for fulfilment of Assignment by Tenderer and the agreed deadline is respected scrupulously by Tenderer (+3),
 - 9.2.2.2. the timescale for fulfilment of Assignment is not clearly set by Tenderer and/or agreed deadline is not respected by Tenderer (+1);
 - 9.2.3. **COOPERATION** if cooperation is:
 - 9.2.3.1. very good (+3),
 - 9.2.3.2. good, but not in all matters (+2),
 - 9.2.3.3. poor cooperation (+1).

(when evaluating the cooperation matters following issues could be taken into account - timely response as set in the Assignment, Tenderer's understanding of the Assignment, timely submission of the Assignment order and/or invoices to the Contracting authority);
 - 9.2.4. The Contracting authority shall calculate the final score for each Assignment by summing up all points obtained for the particular Assignment and dividing the sum with 3 (three). The Contracting authority records the resulting KPI. If a Tenderer receives twice 2,5 points or less, the Contracting authority has rights not to invite the Tenderer to the next 3 (three) mini-competitions and/or not to award next 3 (three) direct Assignments (in total for 3 (three) Assignments).

10. IMPROVEMENTS FOR EFFECTIVENESS OF LEGAL SERVICE PROVISION TO THE CONTRACTING AUTHORITY

- 10.1. The Tenderer shall prepare a Proposal for free of charge improvements of effectiveness of legal service provisions to the Contracting authority, innovation in Service delivering and cooperation between the Tenderer and the Contracting Authority. Length of a Proposal shall not exceed one A4 page, font size: 11 pt.
- 10.2. The Tenderer's proposal shall include the following information:

10.2.1. Work with other panel firms: A recommendation of how the Tenderer will work with other Panel law firms for the benefit of the Contracting authority.

10.2.2. Cooperation with the Contracting authority:

- 10.2.2.1. a description of how the Tenderer will share best practice (including, but not limited to training (seminars), know-how transfer, procedure efficiency) with the Contracting authority. Examples of previous cooperation with other clients where the Tenderer shared best practice.
- 10.2.2.2. suggestion how the Tenderer envisages a partnership with the Contracting authority. Please refer to previous experience with other clients.
- 10.2.2.3. a description of past successes and learnings from collaboration with other clients and how it increased effectiveness of the Contracting authority.

11. CASE STUDY

11.1. The Tenderer shall prepare a short and high-level legal opinion regarding the legal issue mention below. The case study shall be based on EU legislations, EU case law and national (Latvian, Estonian and Lithuanian) legislation. Length of an analysis shall not exceed one A4 page, font size 11 pt.

1. Facts

RB Rail AS (RBR) and a design contractor of RBR (the **Contractor**) have executed negotiations at senior management level and have agreed on the suspension of the design services as well as change of some design solutions related to culverts. For change in culverts solutions RBR has issued instruction that contained a disclaimer that read as follows: "RBR assumes that change in the culverts solution have no impact on time and money". No similar formal document was issued for the suspension of the design services.

Design contracts for the Rail Baltica line are procured by RB Rail AS on the basis of Public Procurement Law of the Republic of Latvia. At the same time contracts are governed by national (in this case - Latvian) law.

2. First issue – suspension of the contract

2.1. The Contractor has suspended execution of the contract immediately after negotiations without written formal approval of RBR;

2.2. The Contractor and RBR has a difference of opinion on the agreed length of suspension period. According to the Contractor, the agreement on the suspension period was 5 months, while according to RBR – 3 months;

3. Second issue – change of the design solutions

3.1. The Contractor has executed the design change and claimed for additional time and cost 1 year after change of the design. RBR refuses to grant additional time and cost on the argument that if the Contractor had timely informed on the time and cost impact RBR would have withdrawn from the instruction.

3.2. The procurement was carried out in 2016 based on the 2016 market price assumptions. The Contractor has demanded to pay for the changes in the design based on the 2022 market price assumptions.

Questions to be answered

1. Regarding Items 2.1-2.2:

– Please provide your legal assessment on the liability of RBR and / or the Contractor, and a recommendation to RBR, on the assumption that mutual settlement agreement is not possible.

2. Regarding Item 3.1:

– Should RB Rail AS accept the Contractor's request for additional remuneration and time extension?

3. Regarding Item 3.2:

– How should RBR assess the quantum on basis of the procurement law requirements, on the assumption that RBR agrees with the entitlement?

4. Please indicate if and how would the answers change, if the event would happen in Lithuania or Estonia?

Please justify your answers and, if possible, refer to applicable legislative provisions and/or case law.

ANNEX NO 2: APPLICATION

**APPLICATION FOR PARTICIPATION IN THE PROCUREMENT
"LEGAL SERVICES"
(ID NO RBR 2022/23)**

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 "Legal services", ID No RBR 2022/23;
2. Confirms that, if the Tenderer will be awarded the Framework agreement, the Tenderer will provide quality and timely performance of the contractual liabilities for the proposed price and in accordance with the requirements of the Annex No 1 "Technical specification" of the Regulations;
3. Offers to deliver Services in accordance with the Annex No 1 "Technical specification" of the Regulations for the following blended hourly rate⁹ (without VAT):

_____ EUR/h

4. Proposes following key experts for the Service provision:

Mandatory

No	Service line	Key expert	Country	Name of the key expert
1	Corporate Governance	Corporate Governance Expert	Latvia	
			Estonia	

⁹ When preparing the Financial proposal, the rules of Section 11 of the Regulations must be considered.

			Lithuania	
2	Employment law	Employment Law Expert	Latvia	
			Estonia	
			Lithuania	
3	Construction, Real Estate and Environment	Construction, Real Estate and Environment Law Expert	Latvia	
			Estonia	
			Lithuania	
4	Public Procurement	Public Procurement Law Expert	Latvia	
			Estonia	
			Lithuania	
5	Competition Law and State Aid	Competition Law and State Aid Expert	Latvia	
			Estonia	
			Lithuania	
6	Dispute resolution	Dispute Resolution Expert	Latvia	
			Estonia	
			Lithuania	

5. Indicates that Tenderer will rely on the capacity of following entities (if applicable):

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

6. Indicates that Tenderer will involve following subcontractors in the provision of the Services (if applicable):

No	Name of the sub-contractor (registration No., legal address)	Description of the sub-contracted task	Sub-contracted tasks		
			Amount, EUR (without VAT)	% from the proposed price	Size of the enterprise ¹⁰
I	Total amount of the sub-contracted tasks is equal to or exceeds 10% from the proposed contract price				
1					
2					
n+1					
Total:					
II	Total amount of the sub-contracted tasks is smaller				

¹⁰ Please indicate the size of enterprise (small, medium or other) as defined in the Article 2 of Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise. 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

	than 10% from the proposed contract price				
1					
2					
n+1					
Total:					
Total (I+II)					

7. 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 Framework agreement it shall fulfil all conditions of the Regulations as well as enter into a Framework agreement in accordance with the Draft Framework agreement enclosed with the Regulations (Annex No 5 of the Regulations);
8. Confirms that in the preparation and submission of its Proposal, Tenderer has fully considered all the clarifications issued by the Contracting authority;
9. Confirms that Tenderer has prepared the Proposal without connection with any other person, company or parties likewise submitting a Proposal and that it is prepared in all respects for in good faith, without collusion or fraud;
10. Confirms that Tenderer's offered services are free from all liens, interests or other rights of third parties;
11. Agrees that the Contracting authority reserves itself the right to reject any or all Proposals and cancel the procurement process before entry into Framework agreement on the grounds specified in the Regulations or the law;
12. Guarantees that all information and documents provided are true;
13. Confirms¹¹ that meets the criteria of (please indicate by ticking relevant box):

☐ a small

☐ medium

☐ other

sized enterprise¹² as defined in the Article 2 of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise.¹³

[date of signing]

[name and position of the representative of the Tenderer]

¹¹ Tenderer must indicate size of enterprise for each member of the partnership, if the Tenderer is a partnership.

¹² 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.

¹³ 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: CONFIRMATION OF FINANCIAL STANDING

CONFIRMATION OF TENDERER'S FINANCIAL STANDING FOR THE PROCUREMENT "LEGAL SERVICES" (ID NO RBR 2022/23)

1. Section 8.3.1 of the Regulations

The Tenderer's or all members of the partnership together (if the Tenderer is a partnership and confirms the average financial turnover jointly), average annual financial turnover within last 3 (three) years (2019, 2020, 2021) is not less than EUR 700 000,00 (seven hundred thousand *euros*) per year.

In the event the average annual financial turnover of a limited partner of a limited partnership (within the meaning of the Commercial Law of the Republic of Latvia, Division X) exceeds its investment in the limited partnership, the average annual financial turnover shall be recognised in the amount of the investment in the limited partnership.

In the event the Tenderer or a member of a partnership (if the Tenderer is a partnership) has operated in the market for less than 3 (three) years, the requirement shall be met during the Tenderer's actual operation period. For law firms that have been registered in the Commercial register in accordance with the procedures specified in the Commercial Law of the Republic of Latvia due to the amendments in the Advocacy Law of the Republic of Latvia, Section 116 (successors to rights and liabilities of such law firms which had been established until the day when amendments to Section 116 of Advocacy Law of the Republic of Latvia came into force), exception applies – their predecessor's average turnover will be recognized.

No	Year	Total Turnover in EUR	Notes
The Tenderer or member of the partnership (if the Tenderer is a partnership) on whose capacity Tenderer is relying to certify its financial and economic performance (Section 8.3.1 of the Regulations) and who will be financially and economically responsible for fulfilment of the Contract or other entity on whose capacity Tenderer is relying (if the Tenderer is relying on other entity's capacity) to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract:			
Name of the Tenderer/member of a partnership/other entity			
1.	2021		
2.	2020		
3.	2019		
Average annual turnover within the last 3 (three) financial years			

[date of signing]

[name and position of the representative of the Tenderer]

ANNEX NO 4: DESCRIPTION OF KEY EXPERT'S EXPERIENCE

**KEY EXPERT'S APPLICATION
FOR PARTICIPATION IN THE PROCUREMENT**

**"LEGAL SERVICES"
(ID No RBR 2022/23)
FOR THE SERVICE LINE¹⁴**

Title of the Service line

The position for which the key expert is proposed

Country

Name of key expert	
Education	
Obtained degree	
Personal contact information (phone and e-mail)	

¹⁴ Separate key expert's application for every country of every position shall be prepared.

Professional experience within last 5 (five) years¹⁵:

No	Employing organization	Employment period (start – finish dates: month/year – month/year)	Positions held	Activities / Tasks performed
1.				
2.				
3.				

English language skills¹⁶:

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.

I confirm that I have consented that my candidature is proposed in the procurement "Legal services", ID No RBR 2022/23.

I confirm that in case the Tenderer [name of the Tenderer or members of the partnership] will conclude the Framework agreement as the result of the Procurement I will participate as Key expert in the execution of the Framework agreement.

Annexes (diplomas, etc.):

- 1) Project experience
- 2) _____
- 3) _____

[date of signing]

[signature]

[name of the key expert]

¹⁵ Please see the Section 8.4.4 of the Regulations.

¹⁶ Language skill level is based on Common European Framework of Reference for Languages (see <http://europass.cedefop.europa.eu/resources/european-language-levels-cefr>)

Project experience¹⁷ of Corporate Governance Expert:

No	Project and description of its compliance to requirements ¹⁸	Period of the service provision (month/year – month/year)	Client, client's contact information for references (name of representative, phone, e-mail) ¹⁹	Position in the project and description of the role and responsibilities, e.g., relevant experience related to the particular Service line	Total legal fee of provided services (EUR ²⁰ , excl. VAT)	Total billable hours of provided services ²¹
1. ²²						
2.						
3.						
4.						
5.						

¹⁷ List of projects must be related only to a particular position and Service line an expert is applying for.

¹⁸ Please specify experience and criteria of project according to description in the table of Section 3.1 of the Technical Specification.

¹⁹ In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements.

²⁰ If the fee is in different currency than EUR, the Tenderer shall recalculate it in EUR in accordance with the currency exchange rate of the European Central Bank on the day of signing the Proposal. For project experience described in the Clause 1) (a) or b)) for expert in Latvia and for experts in Estonia and Lithuania please indicate fee per each year of project.

²¹ For project experience described in the Clause 1) (a) or b)) for expert in Latvia and for experts in Estonia and Lithuania please indicate billable hours per each year of project.

²² Up to 5 projects which Tenderer considers in line with project experience requirements shall be indicated in the table.

Project experience²³ of Employment Law Expert:

No	Project and description of its compliance to requirements (e.g., Clause 1 (a or b), Clause 2 (a or b) or Clause 3 (a or b) ²⁴)	Period of the service provision (month/year – month/year)	Client, client's contact information for references (name of representative, phone, e-mail) ²⁵	Position in the project; description of the role and responsibilities, e.g. ,relevant experience related to the particular Service line	Total legal fee of provided services (EUR ²⁶ , excl. VAT)	Total billable hours of provided services ²⁷
1. ²⁸						
2.						
3.						
4.						
5.						

²³ List of projects must be related only to a particular position and Service line an expert is applying for.

²⁴ Please specify experience and criteria of project according to description in the table of Section 3.1 of the Technical Specification.

²⁵ In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements.

²⁶ If the fee is in different currency than EUR, the Tenderer shall recalculate it in EUR in accordance with the currency exchange rate of the European Central Bank on the day of signing the Proposal. For project experience the Clause 1) (a) or b)) please indicate fee per each year of project.

²⁷ For project experience described in the Clause 1) (a) or b)) please indicate billable hours per each year of project.

²⁸ Up to 5 projects which Tenderer considers in line with project experience requirements shall be indicated in the table.

Project experience²⁹ of Construction, Real Estate and Environment Law Expert:

No	Project and description of its compliance to requirements (e.g., Clause 1 (a or b) or Clause 2 (a or b) ³⁰)	Period of the service provision (month/year – month/year)	Client, client's contact information for references (name of representative, phone, e-mail) ³¹	Position in the project; description of the role and responsibilities, e.g. ,relevant experience related to the particular Service line	Total legal fee of provided services (EUR ³² , excl. VAT)	Total billable hours of provided services
1. ³³						
2.						
3.						
4.						
5.						

FIDIC standards³⁴

No	Project and description of its compliance to requirements (e.g., Clause 1 (a or b), Clause 2 (a or b) ³⁵)	Period of the service provision (month/year-month/year)	Client, client's contact information for references (name of representative, phone, e-mail) ³⁶	Position in the project; description of the role and responsibilities (including FIDIC experience)	Total legal fee of provided services (EUR ³⁷ , excl. VAT)	Total billable hours of provided services
1.						

²⁹ List of projects must be related only to a particular position and Service line an expert is applying for.

³⁰ Please specify experience and criteria of project according to description in the table of Section 3.1 of the Technical Specification.

³¹ In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements.

³² If the fee is in different currency than EUR, the Tenderer shall recalculate it in EUR in accordance with the currency exchange rate of the European Central Bank on the day of signing the Proposal.

³³ Up to 5 projects which Tenderer considers in line with project experience requirements shall be indicated in the table.

³⁴ If applicable. Only 1 project should be indicated.

³⁵ Please specify experience and criteria of project according to description in the table of Section 3.1 of the Technical Specification.

³⁶ In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements.

³⁷ If the fee is in different currency than EUR, the Tenderer shall recalculate it in EUR in accordance with the currency exchange rate of the European Central Bank on the day of signing the Proposal.

Project experience³⁸ of Public Procurement Law Expert:

No	Project and description of its compliance to requirements ³⁹	Period of the service provision (month/year – month/year)	Client, client's contact information for references (name of representative, phone, e-mail) ⁴⁰	Position in the project; description of the role and responsibilities, e.g., relevant experience related to the particular Service line	Link to Procurement and/or Procurement dispute publication, Procurement Id No	Planned procurement contract price (EUR ⁴¹ , excl. VAT)
1. ⁴²						
2.						
3.						
4.						
5.						

³⁸ List of projects must be related only to a particular position and Service line an expert is applying for.

³⁹ Please specify experience and criteria of project according to description in the table of Section 3.1 of the Technical Specification.

⁴⁰ In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements.

⁴¹ If planned contract price for the procurement is in different currency than EUR, the Tenderer shall recalculate it in EUR in accordance with the currency exchange rate of the European Central Bank on the day of signing the Proposal.

⁴² Up to 5 projects which Tenderer considers in line with project experience requirements shall be indicated in the table.

Project experience⁴³ of Competition Law and State Aid Expert:

No	Project and description of its compliance to requirements ⁴⁴	Period of the service provision (month/year – month/year)	Client, client's contact information for references (name of representative, phone, e-mail) ⁴⁵	Position in the project; description of the role and responsibilities, e.g., relevant experience related to the particular Service line (for Clause 3– details for each of merger)	Link to the state authority's final decisions	Total legal fee of provided services (EUR ⁴⁶ , excl. VAT)	Total billable hours of provided services
1. ⁴⁷							
2.							
3.							
4.							
5.							

⁴³ List of projects must be related only to a particular position and Service line an expert is applying for.

⁴⁴ Please specify experience and criteria of project according to description in the table of Section 3.1 of the Technical Specification.

⁴⁵ In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements.

⁴⁶ If the fee is in different currency than EUR, the Tenderer shall recalculate it in EUR in accordance with the currency exchange rate of the European Central Bank on the day of signing the Proposal.

⁴⁷ Up to 5 projects which Tenderer considers in line with project experience requirements shall be indicated in the table.

Project experience⁴⁸ of Dispute Resolutions Expert:

No	Project and description of its compliance to requirements (e.g., Clause 1 (a or b) or Clause 2 (a or b) ⁴⁹)	Period of the service provision (month/year – month/year)	Client, client's contact information for references (name of representative, phone, e-mail) ⁵⁰	Position in the project; description of the role and responsibilities, e.g., relevant experience related to the particular Service line	Total legal fee of provided services (EUR ⁵¹ , excl. VAT)	Total billable hours of provided services
1. ⁵²						
2.						
3.						
4.						
5.						

⁴⁸ List of projects must be related only to a particular position and Service line an expert is applying for.

⁴⁹ Please specify experience and criteria of project according to description in the table of Section 3.1 of the Technical Specification.

⁵⁰ In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements.

⁵¹ If the fee is in different currency than EUR, the Tenderer shall recalculate it in EUR in accordance with the currency exchange rate of the European Central Bank on the day of signing the Proposal.

⁵² Up to 5 projects which Tenderer considers in line with project experience requirements shall be indicated in the table.

ANNEX NO 5: DRAFT FRAMEWORK AGREEMENT

Please see separate file "Legal Framework Agreement".