

# REGULATIONS

FOR THE PROCUREMENT

**"DIRECTORS AND OFFICERS LIABILITY INSURANCE"**

(IDENTIFICATION NO RBR 2022/27)



**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. **Contract** - agreement between Contracting authority and a Contractor to provide Services defined in the aforementioned agreement;
- 1.3. **Contracting authority** (also, RB Rail AS) - the joint stock company RB Rail AS, registration number 40103845025, legal address: Satekles iela 2B, Riga, LV-1050, Latvia;
- 1.4. **Contractor** - Tenderer awarded the right to enter into the Contract in Procurement to provide Services in accordance with requirements stipulated in Regulations and Contract;
- 1.5. **Identification number** – designation, which includes the abbreviation of the name of the Contracting authority (the first capital letters), the relevant year and the procurement sequence number in ascending order (RBR 2022/27);
- 1.6. **Procurement** - procurement "Directors and Officers Liability Insurance" (identification number: RBR 2022/27) in which all interested Suppliers are entitled to submit their Proposals;
- 1.7. **Procurement commission** – commission which composition has been established by the joint stock company RB Rail AS, order 1.9-2022-36 dated 16 December 2022, issued by the Management Board of joint stock company RB Rail AS;
- 1.8. **Proposal** - documentation package the Tenderer submits to participate in the Procurement;
- 1.9. **Regulations** – regulations of the Procurement "Directors and Officers Liability Insurance" (identification number: RBR 2022/27), as well as all the enclosed annexes;
- 1.10. **Service** (also Services) - Directors and officers liability insurance that is provided in accordance with terms and conditions set out in Regulations (especially in Annex No 1 "Technical specification" and Contract).
- 1.11. **Supplier** – a natural person or a legal person, a group or association of such persons in any combination thereof, which offers to provide Services;
- 1.12. **Tenderer** – a Supplier which has submitted a Proposal.

## 2. GENERAL INFORMATION

- 2.1. The Procurement is co-financed by the Contracting authority and Connecting Europe Facility (CEF).
- 2.2. The applicable CPV code is 66516500-5 (Professional liability insurance services).
- 2.3. The Tenderer shall submit a Proposal for the entire volume of the Procurement.
- 2.4. The Tenderer is not permitted to submit variants of the Proposal. If variants of the Proposal will be submitted, the Proposal will not be reviewed.
- 2.5. Procurement is organised in accordance with Section 9 of the Public Procurement Law of the Republic of Latvia (hereinafter – Public Procurement Law) in effect on the date of publishing the contract notice. The estimated contract price shall not be equal to or exceed 42 000 EUR (forty-two thousand euros).
- 2.6. Procurement documentation is published using E-Tenders system which is subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EKEIS/Supplier>).
- 2.7. The Regulations is freely available in Contracting authority's profile in the E-Tenders system on webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/95023> and on the webpage of the Contracting authority <http://railbaltica.org/tenders/>.
- 2.8. Answers to Suppliers' questions will be published on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/95023> and on the Contracting authority's webpage <http://railbaltica.org/tenders/>. It is the Supplier's responsibility to constantly follow the information published on the webpages and to take it into consideration in preparation of its Proposal.
- 2.9. Contact person of the Contracting authority for the Procurement is Procurement Specialist Zane Nore, telephone: +371 28312829, e-mail address: [zane.nore@railbaltica.org](mailto:zane.nore@railbaltica.org).

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

### 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 presents to Procurement commission original documents.
- 3.3. During the Proposal evaluation, the Procurement commission has the right to request Tenderer to clarify the information included in its Proposal.
- 3.4. If the Procurement commission determines that the information about the Tenderer or persons upon whose capacity the Tenderer is relying that is included in submitted documents is unclear or incomplete, it demands that the Tenderer or a competent institution clarifies the information included in the Proposal. The deadline for submission of the necessary information is determined in proportion to the time which is required to prepare and submit such information. If the Procurement commission has requested to clarify the submitted documents, but the Tenderer has not done this in accordance with the requirements stipulated by the Procurement commission, the Procurement commission is under no obligation to repeatedly demand that the information included in these documents be clarified. The Procurement commission has the right to reject all Proposals which are found not to comply with the requirements of the Procurement documentation.

### 4. THE OBLIGATIONS OF THE PROCUREMENT COMMISSION

- 4.1. The Procurement commission ensures the documentation of the Procurement process.
- 4.2. The Procurement commission ensures free and direct electronic access to the Procurement documents in Contracting authority's profile on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/95023> and on the webpage of the Contracting authority <http://railbaltica.org/tenders/>.
- 4.3. If an additional information has been requested according to Section 2.12 of the Regulations, Contracting authority sends this information to the Supplier who asked the question, publishes this information in Contracting authority's profile on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/95023> and on its webpage <http://railbaltica.org/tenders/> where Procurement documents are available, indicating the question asked.
- 4.4. The exchange and storage of information is carried out in such a way that all data included in the Proposals 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 any information regarding the existence of other Proposals. During the time of Proposal evaluation, the Contracting authority does not disclose any information regarding the evaluation process until the announcement of the results.

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

## 5. THE RIGHTS OF THE TENDERER

- 5.1. The Tenderer has the right to submit 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. If the Contracting authority gets the necessary information about the Tenderer directly from a competent institution, through data bases or other sources and the Tenderer's submitted information differs from information obtained by the Contracting authority, the Tenderer in question has the right to submit evidence to prove the correctness of the information the Tenderer has submitted, if the information obtained by the Contracting authority does not conform to the factual situation.
- 5.3. If a Tenderer believes that its rights have been violated or such violation is possible due to possible violation of the regulatory enactments of the European Union or other regulatory enactments, the Tenderer has the right to submit an application to the Administrative court according to the procedure stipulated in the Section 9, Paragraph 23 of the Public Procurement Law and Administrative Procedure Law of the Republic of Latvia regarding the Tenderer selection requirements, Technical specification or other requirements relating to Procurement, or relating to the activities by the Contracting authority or the Procurement commission during the Procurement.

## 6. SUBJECT-MATTER OF THE PROCUREMENT

- 6.1. The subject-matter of the Procurement is the provision of Services.
- 6.2. Period of provision of Services is 12 months, from 25 April 2023, 00:00 (Eastern European Time) till 24 April 2024, 23:59 (Eastern European Time), including.

## 7. TENDERER

- 7.1. The Proposal can be submitted by:
- 7.1.1. A Supplier who is a legal or natural person (hereinafter – the Tenderer) which offers on the market to provide Services and who complies with the selection criteria for Tenderers;
- 7.1.2. A group of Suppliers (hereinafter also – the Tenderer, partnership) which offer on the market to provide Services and who complies with the selection criteria for Tenderers:
- 7.1.2.1. A group of Suppliers who have formed a partnership for Procurement. In this case all the members of the partnership shall be listed in Annex No 2 "Application for participating in the Procurement". If it will be decided to award contracting rights to such partnership, then prior to concluding the Contract the partnership shall at its discretion either enter into a partnership agreement (within the meaning of 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) which complies with the selection criteria for Tenderers.

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 Ukraine<sup>1</sup> 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 Contract 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. Exclusion grounds

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

No	Requirement	Documents to be submitted <sup>2</sup>
8.1.1.	<p>Within previous 3 (three) years before submission of the Proposal:</p> <ul style="list-style-type: none"> <li>- The Tenderer;</li> <li>- Person who is Tenderer's management board or supervisory board member;</li> <li>- Person with representation rights or a procura holder;</li> <li>- Person who is authorised to represent the Tenderer in operations in relation to a branch;</li> <li>- Subcontractor whose value of works to be performed or services to be provided is equal to or exceeds 10`000 (ten thousand) euros of the contract price;</li> <li>- Person on whose capacity Tenderer is relying to certify its compliance with the requirements;</li> <li>- Beneficial owner of the Tenderer;<sup>3</sup></li> </ul>	<ul style="list-style-type: none"> <li>- For a Tenderer and a person who is Tenderer's management board or supervisory board member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch;</li> <li>- For subcontractor whose value of works to be performed or services to be provided is equal to or exceed 10`000 (ten thousand) euros of the contract price;</li> <li>- For a person on whose capacity Tenderer is relying to certify its compliance with the requirements;</li> <li>- For beneficial owner of the Tenderer; <u>who is registered or residing in Latvia</u>, Contracting authority will verify the information itself in publicly available databases;</li> <li>- For a Tenderer and a person who is Tenderer's management board or supervisory board member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch;</li> </ul>

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

<sup>2</sup> Unless documents are specifically requested by the Procurement commission, no obligation to submit any.

<sup>3</sup> **Beneficial owner:** a natural person who is the owner of the customer - legal person - or who controls the customer, or on whose behalf, for whose benefit or in whose interests business relationship is being established or an individual transaction is being executed, and it is at least:

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

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

No	Requirement	Documents to be submitted <sup>2</sup>
	<p>- Person who has decisive influence on participation in the sense of the normative/regulatory acts;<sup>4</sup></p> <p>has been found guilty of or has been subjected to coercive measures for committing any of the following criminal offences by such a public prosecutor's order regarding punishment or a court judgement that has entered into force and may not be challenged and appealed:</p> <p>a) establishment, management of, involvement in a criminal organization or in an organized group included in the criminal organization or other criminal formation, or participation in criminal offences committed by such organization,</p> <p>b) bribe-taking, bribery, bribe misappropriation, intermediation in bribery, unauthorized participation in property transactions, taking of prohibited benefit, commercial bribing, unlawful claiming of benefits, accepting or providing of benefits, trading influences,</p> <p>c) fraud, misappropriation or money-laundering,</p> <p>d) terrorism, terrorism funding, creation or organization of a terrorist group, traveling for terrorist purposes, justification of terrorism, calling to terrorism, terrorism threats or recruiting or training a person in performance of acts of terrorism,</p> <p>e) human trafficking,</p> <p>f) evasion from payment of taxes or similar payments.</p>	<ul style="list-style-type: none"> <li>- For subcontractor whose value of works to be performed or services to be provided is equal to or exceed 10`000 (ten thousand) euros of the contract;</li> <li>- For a person on whose capacity Tenderer is relying to certify its compliance with the requirements;</li> <li>- For beneficial owner of the Tenderer; <u>who is registered or residing outside of Latvia</u>, Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence.</li> <li>- For a person who has decisive influence on participation in the sense of the normative/regulatory acts who is registered or residing in Latvia and who is registered or residing outside of Latvia, Tenderer shall submit a statement approved by competent authority, indicating persons who has decisive influence.<sup>5</sup></li> </ul>
8.1.2.	<p>It has been detected that on the last day of Proposal submission term or on the day when a decision has been made on possible granting of rights to conclude the Contract:</p> <ul style="list-style-type: none"> <li>- The Tenderer;</li> <li>- Subcontractor whose value of works to be performed or services to be provided is equal to or exceeds 10`000 (ten thousand) euros of the contract price;</li> <li>- Person on whose capacity Tenderer is relying to certify its compliance with the requirements;</li> <li>- Beneficial owner of the Tenderer;</li> <li>- Person who has decisive influence on participation in the sense of the normative/regulatory acts;</li> </ul> <p>has tax debts:</p>	<ul style="list-style-type: none"> <li>- For a Tenderer;</li> <li>- For subcontractor whose value of works to be performed or services to be provided is equal to or exceeds 10`000 (ten thousand) euros of the contract price;</li> <li>- For a person on whose capacity Tenderer is relying to certify its compliance with the requirements;</li> <li>- For beneficial owner of the Tenderer; <u>who is registered or residing in Latvia</u>, Contracting authority will verify the information itself in publicly available databases;</li> <li>- For a Tenderer;</li> <li>- For subcontractor whose value of works to be performed or services to be provided is equal to or exceed 10`000 (ten thousand) euros of the contract price;</li> </ul>

<sup>4</sup> <https://likumi.lv/ta/en/en/id/4423-group-of-companies-law>

<sup>5</sup> If such documents of the competent authority are not issued, Tenderer shall submit certificate that is provided by a competent executive authority or a judicial authority, a sworn notary or competent organization of the relevant industry.

No	Requirement	Documents to be submitted <sup>2</sup>
	<p>a) in Latvia in accordance with the Law "On Taxes and Fees";</p> <p>or</p> <p>b) in the country of registration or permanent residence in accordance with the laws and regulations of the country of registration or residence has unfulfilled obligations in the field of taxes (including state social insurance contributions debts).</p>	<ul style="list-style-type: none"> <li>- For a person on whose capacity Tenderer is relying to certify its compliance with the requirements;</li> <li>- For beneficial owner of the Tenderer; <u>who is registered or residing outside of Latvia</u>, Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence;</li> <li>- For a person who has decisive influence on participation in the sense of the normative/regulatory acts who is registered or residing in Latvia and who is registered or residing outside of Latvia, Tenderer shall submit a statement approved by competent authority, indicating persons with decisive influence.</li> </ul>
8.1.3.	<p>Insolvency proceeding have been announced (except where a set of measures aimed at restoring the solvency of the debtor is applied in the insolvency proceedings), the business activities have been suspended, the business is under liquidation for:</p> <p>-Tenderer;</p> <p>- Subcontractor whose value of works to be performed or services to be provided is equal to or exceeds 10`000 (ten thousand) euros of the contract price;</p> <p>-Person on whose capacity the Tenderer is relying to certify its compliance with the requirements.</p>	<ul style="list-style-type: none"> <li>- For a Tenderer;</li> <li>- For subcontractor whose value of works to be performed or services to be provided is equal to or exceeds 10`000 (ten thousand) euros of the contract price;</li> <li>- For a person on whose capacity the Tenderer is relying to certify its compliance with requirements; <u>who is registered or residing in Latvia</u>, the contracting authority will verify the information itself in publicly available databases;</li> <li>- For a Tenderer;</li> <li>- For subcontractor whose value or works to be performed or services to be provided is equal to or exceeds 10`000 (ten thousand) euros of the contract price;</li> <li>- For a person on whose capacity the Tenderer is relying to certify its compliance with the requirements;</li> <li>- <u>who is registered or residing outside of Latvia</u>, the person shall submit an appropriate statement from the competent authority of the country of registration or residence.</li> </ul>
8.1.4.	<p>In case a person who drafted the procurement procedure documents (Contracting authority's official or employee), Procurement commission member, Procurement commission secretary or expert is related to the Tenderer or is interested in selection of some Tenderer and the Contracting authority cannot prevent this situation by measures that cause less restrictions on Tenderer. A person who drafted the procurement procedure documents (Contracting authority's official or employee), Procurement commission member, Procurement commission secretary or expert is presumed to be related to the Tenderer in any of the following cases:</p> <p>a) If he or she is a current and/or an ex-employee, official, shareholder, procura holder or member of a Tenderer or a subcontractor which is legal</p>	<p>No obligation to submit documents, unless specifically requested by the Procurement commission.</p>

No	Requirement	Documents to be submitted <sup>2</sup>
	<p>person and if such relationship with the legal person was terminated within the last 24 (twenty-four) months;</p> <p>b) If he or she is the father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-brother, half-sister or spouse (hereinafter – relative) of a Tenderer's or subcontractor's, which is a legal person, shareholder who owns at least 10% of the shares in a joint-stock company, shareholder in a limited liability company, procure holder or an official;</p> <p>c) If he or she is a relative of a Tenderer or a subcontractor which is a natural person.</p> <p>d) If he or she is current or former beneficial owner of a Tenderer which is a legal person and if such relationship with the legal person was terminated within the last 24 (twenty-four) months;</p> <p>e) If he or she is a relative of the beneficial owner which is a legal person.</p> <p>If the Tenderer is a partnership, consisting of natural or legal persons, a relation to the Tenderer is presumed also if a person who drafted the procurement procedure documents (Contracting authority's official or employee), Procurement commission member or expert is related to a member of a partnership in any of the above-mentioned ways.</p>	
8.1.5.	<p>-Tenderer;</p> <p>-Subcontractor whose value of works to be performed or services to be provided is equal to or exceeds 10`000 (ten thousand) euros of the contract price;</p> <p>-Person on whose capacity Tenderer is relying to certify its compliance with the requirements;</p> <p>-Person who has decisive influence in the sense of the normative/regulatory acts is a legal person or association of persons <u>is registered in an offshore<sup>6</sup></u>.</p>	<ul style="list-style-type: none"> <li>- For a Tenderer;</li> <li>- For subcontractor whose value of works to be performed or services to be provided is equal to or exceeds 10`000 (ten thousand) euros of the contract price;</li> <li>- For a person on whose capacity Tenderer is relying to certify its compliance with the requirements; <u>who is registered or residing in Latvia</u>, the Contracting authority will verify the information itself in publicly available databases;</li> <li>- For a Tenderer;</li> <li>- For subcontractor whose value of works to be performed or services to be provided is equal or exceed 10`000 (ten thousand) euros of the contract price;</li> <li>- For a person on whose capacity Tenderer is relying to certify its compliance with the requirements; <u>who is registered or residing outside of Latvia</u> shall submit a copy of a valid registration certificate or a similar document issued by a competent authority,</li> </ul>

<sup>6</sup> **Offshore:** low tax or tax-free country or territory in accordance with Corporate income tax law of the Republic of Latvia except Member States of EEA (European Economic Area) or its territories, Member States of the World Trade Organization Agreement on State Treaties or territories and such countries and territories with which European Union and Republic of Latvia has international agreements for open market in public procurement area.

No	Requirement	Documents to be submitted <sup>2</sup>
		<p>wherefrom at least the fact of registration country of the Tenderer can be determined;</p> <p>For a person who has decisive influence on participation in the sense of the normative/regulatory acts who is registered or residing in Latvia and who is registered or residing outside of Latvia, Tenderer shall submit a statement approved by competent authority, indicating persons with decisive influence.</p>
8.1.6.	<p>The owner or shareholder (with more than 25% of share capital) of:</p> <ul style="list-style-type: none"> <li>-Tenderer;</li> <li>-Subcontractor whose value of works to be performed or services to be provided is equal or exceeds 10`000 (ten thousand) euros of the contract price;</li> <li>-Person on whose capacity Tenderer is relying to certify its compliance with requirements;</li> <li>-Person who has decisive influence on participation in the sense of the normative/regulatory acts</li> </ul> <p>who is registered in Republic of Latvia, is a registered offshore company (legal person) or offshore association of persons.</p>	<p>For:</p> <ul style="list-style-type: none"> <li>- A Tenderer who is registered in Latvia;</li> <li>- A subcontractor whose value of works to be performed or services to be provided is equal to or exceeds 10`000 (ten thousand) euros or the contract price who is registered in Latvia;</li> <li>- A person on whose capacity the Tenderer is relying to certify its compliance with the requirements who is registered in Latvia;</li> <li>- A Person who has decisive influence on participation in the sense of the normative/regulatory acts who is registered in Latvia;</li> </ul> <p>Contracting authority will verify the information itself in publicly available databases.</p> <ul style="list-style-type: none"> <li>- If such information by publicly available data bases is not provided, Tenderer shall submit self – declaration which approves the fact that there are no registered owners or shareholders of the Tenderer (with more than 25% of share capital) who are registered offshore.</li> </ul>
8.1.7.	<p>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:</p> <ul style="list-style-type: none"> <li>a) Tenderer or a person who is the Tenderer's management board or supervisory board member, beneficial owner, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch,</li> <li>b) member of the partnership or a person who is the partnership's management board or supervisory board member, beneficial owner, person with representation rights or a procura holder (if the Tenderer is a partnership),</li> </ul> <p>and such sanctions can affect the execution of the Contract.</p>	<ul style="list-style-type: none"> <li>- For a Tenderer registered or residing in Latvia, the Contracting authority will verify the information itself in publicly available databases.</li> <li>- For a Tenderer registered or residing outside of Latvia, 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 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.</li> </ul>



## 8.2. Legal standing and suitability to pursue the professional activity

No	Requirement	Documents to be submitted
8.2.1.	The Tenderer or all members of the partnership (if the Tenderer is a partnership) must be registered in the Registry of Enterprises or Registry of Inhabitants, or an equivalent register in their country of residence, if the legislation of the respective country requires registration of natural or legal persons.	<ul style="list-style-type: none"> <li>- For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, which is a legal person registered in Latvia, the Contracting authority will verify the information itself in publicly available databases.</li> <li>- For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, which is a natural person – a copy of an identification card or passport.</li> <li>- For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, which is a legal person registered abroad (with its permanent place of residence abroad) – a copy of a valid registration certificate or a similar document issued by a foreign authority in charge of the registration of legal persons in the country of their residence wherefrom at least the fact of registration, shareholders, officials and procura holders (if any) can be determined.</li> <li>- If a Proposal is submitted by a partnership, the Proposal shall include an agreement (or letter of intent to enter into agreement) signed by all members on the participation in the Procurement which lists responsibilities of each and every partnership members and which authorizes one key member to sign the Proposal and other documents, to receive and issue orders on behalf of the partnership members, and with whom all payments will be made. The Tenderer additionally indicates (in this document) the member of the partnership on whose capacity it relies to certify its financial and economic performance and who will be financially and economically responsible for the fulfilment of the Contract.</li> <li>- If the Proposal or any other document, including any agreement, is not signed by the legal representative of the Tenderer, members of the partnership or person on whose capacity the Tenderer relies, then a document certifying the rights of the persons who have signed the Proposal or any other documents to represent the Tenderer, a member of the partnership or a person on whose capacity the Tenderer is relying (powers of attorney, authorization agreements etc.) must be attached.</li> </ul>
8.2.2.	The representative of the Tenderer, or a member of a partnership, or a person on whose capacity a Tenderer relies who has signed documents contained in the Proposal has the right of signature, i.e., it is an official having the right of signature or a person authorized by the Tenderer.	<ul style="list-style-type: none"> <li>- A document confirming the right of signature (representation) of the representative of the Tenderer or a member of a partnership, or a person on whose capacity a Tenderer relies, who signs the Proposal. For a Tenderer (or a member of a partnership), a person on whose capacity a Tenderer relies, which is a legal person registered in Latvia, the Contracting authority will verify the information itself in publicly available databases.</li> </ul>



No	Requirement	Documents to be submitted
		<ul style="list-style-type: none"> <li>- If the Tenderer (or a member of a partnership), or a person on whose capacity a Tenderer relies, submits a power of attorney (original or a copy certified by the Tenderer) additionally there shall be submitted documents confirming that the issuer of the power of attorney has the right of signature (representation) of the Tenderer.</li> </ul>

### 8.3. Technical and professional ability

No	Requirement	Documents to be submitted
8.3.1.	In past 3 (three) years (2020, 2021 and 2022) until the submission date of the Proposal Tenderer has delivered at least 3 (three) third party liability and/or professional liability insurance policies that includes Directors and Officers (D&O) liability risk coverage, where at least 1 (one) policy was delivered <u>with a limit of liability for D&amp;O risk</u> of EUR 6 000 000,00 (six million euros zero cents) or more.	<ul style="list-style-type: none"> <li>- Filled and signed Annex No 3 "Description of the Tenderer's experience", where the Tenderer's experience is clearly specified.</li> </ul>
8.3.2.	Tenderer is registered as insurance company in accordance with the laws of the state of its registration and is legally capable of providing the Services in the Republic of Latvia.	<ul style="list-style-type: none"> <li>- For Tenderer who is registered or residing in Latvia the Contracting authority will verify the information itself in publicly available databases. If the contracting authority cannot verify the information in publicly available databases, Contracting authority will request for Tenderer to submit a copy of licence (or equivalent document) issued by the competent authority which allows the insurance company to provide liability insurance services in the territory of Latvian Republic;</li> <li>- For Tenderer who is registered or residing outside of Latvia, Tenderer shall submit a copy of license (or equivalent document) issued by a competent authority which allows the insurance company to provide liability insurance services in the territory of the Republic of Latvia;</li> <li>- Insurance company who has the rights to provide Services outside the Republic of Latvia, but has not been registered for provision of Services in Republic of Latvia, in case it will be awarded the contract, will have to register in Republic of Latvia in accordance with the laws and regulations to be legally capable of providing relevant Services in Republic of Latvia. A copy of license (or equivalent document) before the conclusion of the Contract shall be submitted to the Contracting authority.</li> </ul>
8.3.3.	Tenderer has been evaluated by the international credit rating agency with a rating (Financial Strength rating) in investment category (i.e. Standard & Poors rating from AAA to BBB – including) or no less than 100% of the insured risk is located in internationality recognized and proven insurance / reinsurance companies with international credit rating agency credit ratings (Financial Strength Rating) in investment category	<ul style="list-style-type: none"> <li>- Tenderer's statement (affirmation) that Tenderer has been evaluated by the international credit rating agency with a rating (Financial Strength Rating) in investment category (i.e. Standard &amp; Poors rating from AAA to BBB – including) or no less than 100% of the insured risk is located in internationally recognized and proven insurance / reinsurance companies with international credit rating agency credit ratings</li> </ul>

No	Requirement	Documents to be submitted
	(i.e. Standard & Poors rating from AAA to BBB – including).	(Financial Strength Rating) in investment category (i.e. Standard & Poors rating from AAA to BBB – including).
8.3.4.	Insurance broker who represents insurance company (if applicable), is registered as insurance and reinsurance intermediary and is legally capable of providing the Services in the Republic of Latvia.	<ul style="list-style-type: none"> <li>- For Insurance broker who is registered or residing in Latvia the Contracting authority will verify the information itself in publicly available databases. If the contracting authority cannot verify the information in publicly available databases, Contracting authority will request for Insurance broker to submit a copy of licence (or equivalent document) issued by the competent authority which allows the Insurance broker to provide liability insurance services in the territory of Latvian Republic</li> <li>- For Insurance broker who is registered or residing outside of Latvia, Insurance broker shall submit a copy of license (or equivalent document) issued by a competent authority which allows the Insurance broker to provide liability insurance services in the territory of the Republic of Latvia;</li> <li>- Insurance broker who has the rights to provide services outside the Republic of Latvia, but has not been registered for provision of Services in the Republic of Latvia, in case the Tenderer will be awarded the Contract, will have to register in the Republic of Latvia in accordance with the laws and regulations to be legally capable of providing Services in Republic of Latvia. A copy of license (or equivalent document) before the conclusion of the Contract shall be submitted to the Contracting authority.</li> <li>- Power of attorney issued by insurance company that allows insurance broker to represent the insurance company in full amount (from submitting the Proposal till provision of Contract).</li> </ul>

- 8.4. Information provided in the Proposal to prove the compliance with above-mentioned requirements for Technical and professional ability (Section 8.3 of the Regulations) shall be clear and understandable without any additional analysis or external proof of the submitted information. The Contracting authority shall not be obliged to use additional sources of information to decide regarding Tenderer's compliance with the qualification requirements. The Tenderer shall remain fully responsible for the provision of sufficiently detailed information in the Proposal required to confirm clearly the compliance with qualification requirements set in the Regulations.
- 8.5. Notices and other documents which are issued by Latvian competent institutions are accepted and recognized by the Procurement commission, if they are issued no earlier than 1 (one) month prior to the date of submission of particular notices and documents. Notices and other documents which are issued by foreign competent institutions are accepted and recognized by the Procurement commission, if they are issued no earlier than 6 (six) month prior to the date of submission of notices and documents, if the issuer of the notice or document has not set shorter period of validity.
- 8.6. If the documents with which a Tenderer registered or permanently residing abroad can certify its compliance with the requirements of Section 8.1 of the Regulations are not issued or these documents are insufficient, such documents can be replaced with an oath or; if the regulatory enactments of the country in question do not allow for an oath, - with a certification by the Tenderer or by another person mentioned in Section 8.1 of the Regulations before a competent executive governmental or judicial institution, a sworn notary or a competent organization of a corresponding industry in their country of registration (permanent residence). Regarding all documents submitted based on an oath given under law (e.g. sworn-statements, declarations on oath etc.), the Tenderer must provide (indicate) legal

grounds to law or enactment in accordance with such statements or declarations on oath have been given.

## **9. RELIANCE ON THE CAPACITY OF OTHER PERSONS**

- 9.1. For the fulfilment of the Contract, to comply with the selection requirements for the Tenderers relating to the technical and professional capacity, the Tenderer may rely on the capacity of other persons, regardless of the legal nature of their mutual relationship. In this case:
  - 9.1.1. The Tenderer indicates in the Proposal all persons on whose capacity it relies by filling in the table which is attached as Annex No 4 "A list of other entities on whose capacity Tenderer relies" and proves to the Contracting authority that the Tenderer shall have available all the necessary resources for the fulfilment of the Contract by submitting a signed confirmation or agreement on cooperation and/or passing of resources to the Tenderer between such persons and the Tenderer. The confirmations and agreements on cooperation and passing of resources can be replaced by the Tenderer with any other type of documents with which the Tenderer is able to prove that the necessary resources will be available to the Tenderer and will be used during the term of fulfilment of the Contract.
  - 9.1.2. Documents on cooperation and passing of resources must be sufficient to prove to the Contracting authority that the Tenderer will have the ability to fulfil the Contract, as well as that during the validity of the Contract the Tenderer will in fact use the resources of such person upon whose capacity the Tenderer relies.
- 9.2. The Contracting authority will evaluate the person on whose capacity the Tenderer to whom the rights to conclude the Contract should be assigned is relying according to Section 8.1.1 - 8.1.3 of the Regulations.

## **10. TECHNICAL PROPOSAL**

- 10.1. Tenderers shall prepare and submit a technical proposal in accordance with this Section considering aspects of Annex No 1 "Technical specification". Additionally, Technical proposal must contain at least the following:
  - 10.1.1. Directors and Officers liability insurance policy draft;
  - 10.1.2. General terms and conditions of insurance;
  - 10.1.3. Special terms and conditions of insurance.
- 10.2. For avoidance of doubt, in the event of any discrepancies between the terms and conditions submitted by the Tenderer and the terms and conditions contained in the Regulations and/or other Procurement related documents that are prepared by the Contracting authority, the terms and Conditions contained in the Regulations and/or other Procurement related documents that are prepared by the Contracting authority shall prevail.

## **11. FINANCIAL PROPOSAL**

- 11.1. The Financial proposal shall be submitted as part of Annex No 5 "Financial proposal for the Procurement".
- 11.2. The proposed contract price shall include all taxes, fees and payments, and all costs related to the fulfilment of the Services, that can be reasonably estimated, except VAT.
- 11.3. Tenderer shall include any travel expenses (if any arise) in proposed contract price. Contracting authority will not additionally reimburse any travel expenses incurred by Tenderer during the provision of Services.
- 11.4. The costs shall be specified in EUR.
- 11.5. The costs must be calculated and indicated with an accuracy of 2 (two) decimal places after comma. If more than 2 (two) decimal places after comma will be indicated, then only the first two decimal places will be considered.

## 12. CONTENTS AND FORM OF THE PROPOSAL

- 12.1. Proposal must be submitted electronically on E-Tenders subsystem of the Electronic Procurement System in accordance with the following options for the Tenderer:
  - 12.1.1. by using the available tools of E-Tenders subsystem, filling the attached forms of the E-Tenders subsystem for Procurement;
  - 12.1.2. by preparing and filling the necessary electronic documents outside the E-Tenders subsystem and attaching them to relevant requirements (in this situation the Tenderer takes responsibility for the correctness and compliance of the forms to requirements of documentation and form samples);
  - 12.1.3. by encrypting electronically prepared Proposal outside of E-Tenders subsystem with data protection tools provided by third parties, and protection with electronic key and password (in this situation, Tenderer takes responsibility for the correctness and compliance of the forms to requirements of documentation and form samples as well as ensuring capability to open and read the document by the Contracting authority).
- 12.2. During preparation of the Proposal, Tenderer shall respect the following requirements:
  - 12.2.1. Each document mentioned in Section 12.3 of the Regulations must be filled separately, each in a separate electronic document in line with forms attached to Procurement on Contracting authority's profile in E-Tenders subsystem (<https://www.eis.gov.lv/EKEIS/Supplier/Procurement/95023>) in a Microsoft Office 2010 (or later) format and attached to the Procurement;
  - 12.2.2. Upon submission, the Tenderer signs the Proposal with a secure electronic signature and a time seal or with electronic signature provided by Electronic Procurement System. The Tenderer can use a certified electronic signature<sup>7</sup> and valid time seal and sign Application form, Description of the Tenderer's experience, Technical proposal, Financial proposal and other documents separately. The Proposal (its parts, if signed separately) is signed by an authorised person, including its authorisation document (e.g. power of attorney) *expressis verbis* stating the authorisations to sign, submit and otherwise manage the documents.
- 12.3. Documents to be included in the Proposal:
  - 12.3.1. Application for participation in the Procurement in accordance with Annex No 2;
  - 12.3.2. Technical proposal (please see Section 10 of the Regulations);
  - 12.3.3. Financial proposal in accordance with Annex No 5 and Section 11 of the Regulations;
  - 12.3.4. Information and documents confirming compliance of the Tenderer with the selection criteria for the Tenderers (set in Section 8 of the Regulations);
  - 12.3.5. Information and documents relating to other entities on whose capacity the Tenderer is relying (in accordance with Annex No 4).
- 12.4. The Proposal may contain original documents or their derivatives (e.g. copies). In the Proposal or in reply to a request of the Procurement commission Tenderer shall submit only such original documents which have legal force. For the document to gain legal force it must be issued and formatted in accordance with the Law on Legal Force of Documents of the Republic of Latvia (<https://likumi.lv/ta/en/id/210205-law-on-legal-force-of-documents>) but public documents issued abroad shall be formatted and legalized in accordance with the requirements of the Document Legalization Law of the Republic of Latvia (<https://likumi.lv/ta/en/en/id/155411-document-legalisation-law>). Public documents issued abroad can be self-approved by the Tenderer, if it is applicable by the legislation of the respective country. When submitting the Proposal, the Tenderer has the right to certify the correctness of all submitted documents' derivatives and translations with one certification.
- 12.5. The Proposal must be signed by a person who is legally representing the Tenderer or is authorized to represent the Tenderer in the Procurement (please see the Section 8.2.2 of the Regulations).

<sup>7</sup> 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.

- 12.6. The Tenderer shall prepare Proposal in electronic form using the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/95023>.

### 13. ENCRYPTION OF THE PROPOSAL INFORMATION

- 13.1. E-Tenders system which is a subsystem of the Electronic Procurement System ensures first level encryption of the information provided in the Proposal documents.
- 13.2. If the Tenderer applied additional encryption to the information in the Proposal (according to Section 12.1.3 of the Regulations), Tenderer must provide the Procurement commission with the electronic key with the password to unlock the information not later than in 15 (fifteen) minutes after the deadline of the Proposal submission.

### 14. SUBMISSION AND OPENING OF A PROPOSAL

- 14.1. The Proposal (documents referred to in the Section 12.3 of the Regulations) shall be submitted electronically using the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/95023> by:

**1 March 2023 till 11:00 (Riga time).**

- 14.2. The Tenderer may recall or amend its submitted Proposal before the expiry of the deadline for the submission of Proposals by using the E-Tenders system.
- 14.3. Only Proposals submitted through E-Tenders system will be accepted and evaluated for participation in the Procurement. Any Proposal submitted outside the E-Tenders system will be declared as submitted in a non-compliant manner and will not participate in the Procurement.
- 14.4. The Proposals will be opened on the E-Tenders system on **1 March 2023 15:00 (Riga time)** during the opening session. It is possible to follow the opening of submitted Proposals online on the E-Tenders system.
- 14.5. Proposals will be opened by using the tools offered by E-Tenders system. The public information of the Proposals will be published in the E-Tenders system.
- 14.6. The information regarding the Tenderer, the time of Proposal submission 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 in the E-Tenders system and the Contracting authority's webpage.

### 15. VERIFICATION OF PROPOSALS FOR COMPLIANCE

- 15.1. The Procurement commission opens and evaluates the Proposals in a closed session. Procurement commission is entitled to perform evaluation of the compliance only for the Tenderer to whom the rights to conclude the Contract may be assigned.
- 15.2. The Procurement commission verifies whether the submitted Proposals comply with the requirements stipulated in Section 12 of the Regulations and whether all required information and documents is submitted and selects for further evaluation the compliant Proposals.

### 16. VERIFICATION OF TECHNICAL PROPOSALS

The Procurement commission verifies whether the submitted Technical proposals comply with the requirements stipulated in the Section 10 of the Regulations.

### 17. VERIFICATION OF FINANCIAL PROPOSALS

- 17.1. The Procurement commission verifies whether Tenderers have completed Annex No 5 "Financial proposal for the Procurement" in accordance with the requirements.



- 17.2. The Procurement commission verifies whether there are any arithmetical errors in Financial proposals and assesses and compares the contract prices proposed.
- 17.3. If the Procurement commission finds arithmetical errors in Financial proposal, it corrects these errors. The Procurement commission informs the Tenderer whose arithmetical errors have been corrected about the correction of arithmetical errors and the corrected Financial proposal.
- 17.4. When evaluating the corrected Financial proposal, the Procurement commission takes corrections into account.
- 17.5. 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.
- 17.6. The Procurement commission further evaluates only compliant Proposals.

## **18. CONTRACT AWARD CRITERIA**

- 18.1. The Proposal selection criterion is the most economically advantageous proposal according to the evaluation methodology described in this Section below.
- 18.2. The economically most advantageous proposal in the Procurement shall be Proposal with the lowest proposed contract price (the only evaluation criterion), which complies with the requirements stipulated by the Regulations.
- 18.3. The Procurement commission shall determine a Tenderer in accordance with Section 18.2 of the Regulations and the Contract shall be awarded to the Tenderer with lowest proposed contract price.
- 18.4. In case several Tenderers will propose equal contract price, Procurement commission will invite representatives of those particular Tenderers and organize a draw. In situation, when representatives of Tenderers choose to not be present at the draw, Procurement commission will carry out the draw without representatives of Tenderers present by inviting impartial participant from the Contracting authority.

## **19. TENDERER CHECK PRIOR TO MAKING THE DECISION REGARDING THE CONCLUSION OF THE CONTRACT**

- 19.1. Prior to making the decision about assigning rights to conclude the Contract, the Procurement commission performs a check regarding the existence of exclusion grounds, this shall apply for persons indicated in Section 8.1.1. of the Regulations.
- 19.2. If in accordance with the information published in the last day of the last data update in a public database on the last day of the Proposal submission or on the day when the decision regarding the possible assignment of rights to conclude a Contract is made
  - The Tenderer;
  - Member of a partnership (if the Tenderer is a partnership);
  - Subcontractor whose value of works to be performed or services to be provided is at least 10`000 (ten thousand) euros of the contract price;
  - Person on whose capacity the Tenderer is relying to certify its compliance with the requirements;
  - Beneficial owner of the Tenderer;
  - Person who has decisive influence on participation in the sense of normative/regulatory acts; have tax debts, including state mandatory insurance contribution debts, in Latvia in accordance with the Law "On Taxes and Fees" or in a country where it has been incorporated or is permanently residing in, in accordance with the laws and regulations of the country of registration or residence has unfulfilled obligations in the field of taxes.
- 19.3. The Procurement commission informs the Tenderer and sets a deadline – 10 (ten) days from the day of issuing or receiving information – for the submission of a statement evidencing the absence of tax debt, including state mandatory insurance contributions debts, on the last day of Proposal submission or on the day when the decision regarding the possible assignment of the right to conclude a Contract has been made.

- 19.4. If the Tenderer fails to submit required evidence about itself before the deadline, the Procurement commission excludes the Tenderer from participation in the Procurement.

## **20. DECISION MAKING, ANNOUNCEMENT OF RESULTS AND ENTERING INTO A CONTRACT**

- 20.1. 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 Proposal in accordance with the contract award criteria as described in Section 18 of the Regulations. Tenderer with the lowest price Proposal shall be selected.
- 20.2. Within 3 (three) business days from the date of decision about the Procurement results the Procurement commission informs all Tenderers about the decision made by sending the information by post or electronically (including through the E-Tenders system) and keeping the evidence of the date and means of sending the information. The Procurement commission announces the name of the successful Tenderer, indicating:
- 20.2.1. to the rejected Tenderer - the reasons for rejecting its Proposal;
  - 20.2.2. to the Tenderer who has submitted an eligible Proposal - the characterization of the successful Proposal and the relative advantages;
  - 20.2.3. the deadline by which the Tenderer may submit an application to the Administrative court regarding violations of the public procurement procedure.
- 20.3. If the Procurement is terminated, the Procurement commission within 3 (three) business days simultaneously informs all Tenderers about the date of decision, all the reasons because of which the Procurement is terminated and informs about the deadline within which a Tenderer may apply to the Administrative court regarding the violations of the public procurement procedure.
- 20.4. The Procurement commission when informing of 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.
- 20.5. The selected Tenderer upon receiving the specific notification from Procurement commission must:
- 20.5.1. within 5 (five) business days – to submit to the Contracting authority a copy of partnership agreement or notification regarding the establishment of the partnership, if required pursuant to requirements under Section 7.1.2.1 of the Regulations;
  - 20.5.2. within 5 (five) business days – to submit to the Contracting authority a copy of licence (or equivalent document) issued by competent authority that allows to provide Services in the territory of the Republic of Latvia (if applicable in accordance with Section 8.3.2 or 8.3.5 of the Regulations);
  - 20.5.3. within 10 (ten) days – to sign the Contract.
- 20.6. The Contract is concluded based on the Tenderer's Proposal and in accordance with Annex No 6 "Draft contract".
- 20.7. The Procurement commission has the right to choose the next most economically advantageous Proposal, if the Tenderer in the time stipulated by the Regulations:
- 20.7.1. refuses to conclude a partnership contract or establish the partnership in the cases and deadlines defined by the Regulations or in the cases and deadlines defined by the Regulations does not submit a copy of the partnership contract, or does not inform of the founding of a partnership company;
  - 20.7.2. refuses to submit a copy of licence (or equivalent document) or does not submit a copy of licence (or equivalent document) within the deadlines defined in the Regulations (if applicable in accordance with Section 8.3.2 or 8.3.5 of the Regulations);
  - 20.7.3. refuses to conclude the Contract or does not submit signed Contract within the deadlines defined in the Regulations.



- 20.8. In any of such a case mentioned in Section 20.7 of the Regulations the Procurement commission is entitled to terminate this Procurement without selecting any Proposal or to select the Proposal with the next lowest proposed contract price. For either of these decisions a written decision must be made.
- 20.9. Prior to making the decision regarding the conclusion of the Contract with the next Tenderer, the Procurement commission assesses whether the next Tenderer is one market participant together with the initially selected Tenderer. If the next selected Tenderer is found to be one market participant together with the initially selected Tenderer or it does not comply with requirements set in the Section 20.5 of the Regulations, the Procurement commission decides to terminate the Procurement without selecting any Proposal.

**ANNEXES:**

1. Technical specification on 6 (six) pages;
2. Application for participation in the Procurement on 2 (two) pages;
3. Description of the Tenderer's experience on 1 (one) page;
4. A list of other entities on whose capacity Tenderer relies on 1 (one) page;
5. Financial proposal for the Procurement on 1 (one) page;
6. Draft contract on 10 (ten) pages.

**ANNEX NO 1: TECHNICAL SPECIFICATION****TECHNICAL SPECIFICATION FOR THE PROCUREMENT  
"DIRECTORS AND OFFICERS LIABILITY INSURANCE"  
(ID NO. RBR 2022/27)****Co-financed by the Connecting Europe  
Facility of the European Union**Riga  
2023

## 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 1520 mm 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.

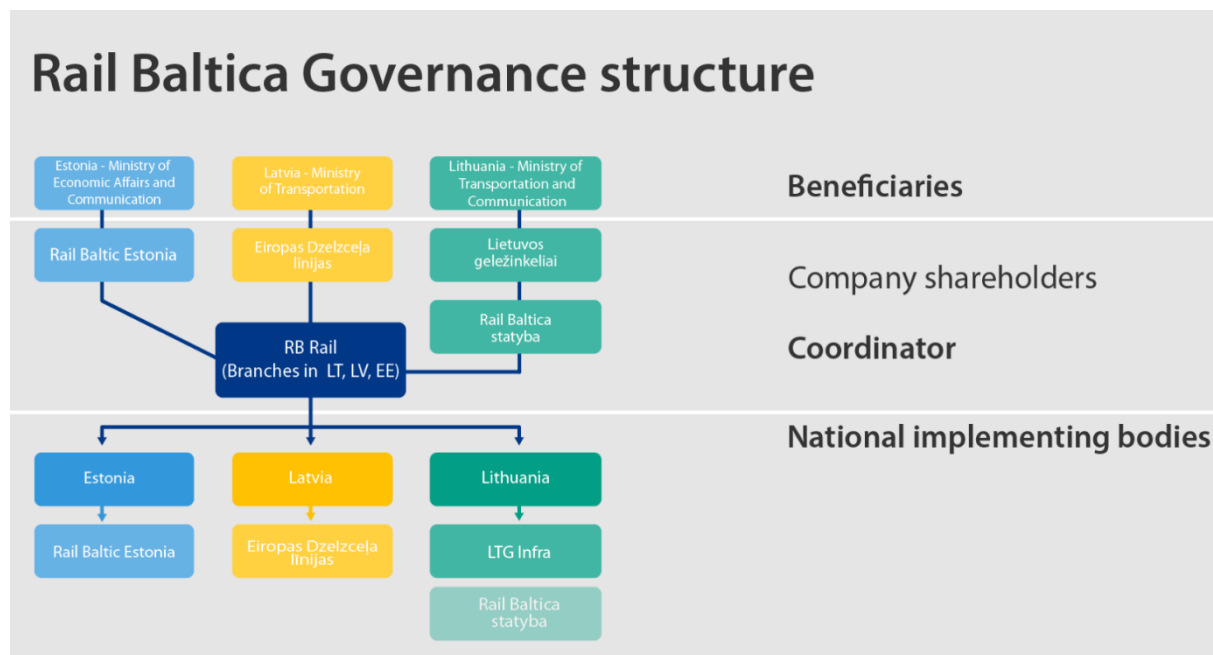
Rail Baltica is already designed to become a part of the EU TEN-T North Sea – Baltic Core Network Corridor, which links Europe's largest ports of Rotterdam, Hamburg and Antwerp – through the Netherlands, Belgium, Germany and Poland – with the three Baltic States, further connecting to Finland via the 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.

RB Rail AS 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.

Additional info on the role of RB Rail AS and its organisational structure can be found:

- a) in the "AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ESTONIA THE GOVERNMENT OF THE REPUBLIC OF LATVIA, AND THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA ON THE DEVELOPMENT OF THE RAIL BALTIC/RAIL BALTICA RAILWAY CONNECTION", that is accessible here: <https://likumi.lv/ta/id/292029-par-igaunijas-republikas-valdibas-latvijas-republikas-valdibas-un-lietuvass-republikas-valdibas-ligumu-par-irail-balticrail-balticai-dzelzcela-savienojuma-izveidi>;
- b) on RB Rail AS official webpage: <https://www.railbaltica.org/> (please see sub-sections under the section "PROJECT IMPLEMENTERS").

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



RB Rail AS together with governments of Estonia, Latvia and Lithuania (represented by the ministries in charge of transport policy) have applied for co-financing and signed Grant Agreements under the Connecting Europe Facility (CEF) Transport sector call in 2014, 2015, 2016, 2019, 2020 and 2021 (seven grant agreements in total) 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. FRAMEWORK OF ASSIGNMENT

RB Rail AS is looking for a service provider capable of providing the Services. The provision of Services means that RB Rail AS's accountable persons are covered with liability insurance in accordance with this technical specification ("Technical Specification") and other provisions set by related Procurement documents. It is understood that accountable persons include existing members, ex-members and future members of the Policyholder's Supervisory Board (*padome*) ("SB Members"), Policyholder's Management Board (*valde*) ("MB Member"), and Policyholder's Shareholder representatives ("SH Representatives") and other persons who are deemed to be Insured Persons in accordance with this section.

Tenderer offering the Services have to envisage that Directors and Officers Liability Insurance should cover any financial loss (including, but not limited to expenditures, financial losses, damages, compensations, costs of expertise, law services for advocacy, other litigation costs and sums payable as a result of settlements) which arises by any claim against any Insured Person (as defined below) with respect to the Insurance Cover.

Detailed information regarding the Services:

Type	Directors and Officers Liability Insurance
Policyholder	RB Rail AS

<b>Policyholder's legal address</b>	Satekles iela 2B, Riga, LV-1050
<b>Policy</b>	An insurance policy that is issued in order to certify that the performance of the Services is ensured.
<b>Policy Period</b>	12 (twelve) months starting from 25 April 2023, 0:00 (Eastern European Time) till 24 April 2024, 23:59 (Eastern European Time), 24 hours in day.
<b>Insurance coverage scope</b>	A. Insured Person's liability cover B. Policyholder's reimbursement cover (Policyholder's expenses for claims against Insured Person)
<b>Limit of Liability</b>	EUR 20 000 000 (twenty million euros) any one claim and in the aggregate for the Policy Period with the following exception – maximum limit of the insurance cover for SB Members and SH Representatives must be sub-limited to EUR 6 000 000 (six million euros) any one claim and in the aggregate.
<b>Insured Persons</b>	<p>Insured Person means:</p> <ol style="list-style-type: none"> <li>I. any natural person who was or is, or becomes MB Member, SB Member, SH Representative or manager of any of the Policyholder's branches (irrespective of the type of contract/type of authorization under which all the aforementioned persons perform their duties);</li> <li>II. any natural person who was or is, or becomes a director or officer of the Policyholder and/or its branches;</li> <li>III. any employee of the Policyholder and/or its branches that doesn't meet any other criteria only if and to the extent a claim is made against him or her for a wrongful act when named as a co-defendant with other Insured Person;</li> <li>IV. any employee while acting in a managerial capacity at the Policyholder and/or its branches, or who is deemed to be performing any activity normally carried out by an Insured Person (including, but not limited to the Policyholder's chief accountant, legal counsel and members of a procurement commission established by the Policyholder, and those employees of the Policyholder and the Policyholder's branches who are members of any procurement commission established by Rail Baltic Estonia OÜ (reg. No 12734109), Sabiedrība ar ierobežotu atbildību "Eiropas dzelzceļa līnijas" (reg. No 40103836785), Akcine bendrove Lietuvos geležinkeliai (reg. No 110053842), AB "LTG Infra" (reg No 305202934), UAB "Rail Baltica statyba" (reg. No 303227458), Estonian Transport Administration (<i>Transpordiamet</i>) (reg. No. 70001490);</li> <li>V. any employee of the Policyholder and/or its branches in respect of an employment wrongful act;</li> <li>VI. any spouse or domestic partner or civil partner of any natural person who falls within the scope of definition of Insured Person above, but only in respect of an action to enforce a judgment obtained against such person against the property of that spouse or domestic partner or civil partner arising from a claim covered by this Directors and Officers Liability Insurance.</li> </ol> <p>Insured Person does not include any external auditor or liquidator or administrator or receiver or administrative receiver or legal or other professional adviser of the Policyholder and/or its branches.</p>
<b>Insurance Cover</b>	Third Party liability for losses resulting from a claim against Insured Person in relation to wrongful acts they have committed (actual or alleged breach of duty, negligence, error, misstatement, omission, a conflict of interest, accounting inaccuracies, power of attorney misuse, false statements, false recommendations, expenses, damages, compensations and other

	payments the Insured Person is or will be obliged to pay in connection with any Third Party claim which incurred in connection with the performance of duties and passing decisions at Policyholder and/or Policyholder's branches, as well as reimbursement of expertise, legal, litigation and other expenses for the Insured Person against third-party claims, including sums as a result of a settlement, etc.).
<b>Exclusions</b>	Limited to exclusions commonly included in Directors and Officers Liability Insurance according to the market practice in Europe, unless otherwise specified in this Technical Specification or other Procurement related documents.
<b>Notification</b>	<p>If a claim is made against the Insured Person during the Policy Period, the Policyholder shall provide a written notice as soon as practicable after the MB Member of the Policyholder becomes aware of such claim.</p> <p>If the Insured Person first becomes aware of a wrongful act or first becomes aware of a situation or circumstance that the Insured Person reasonably considers may become a claim, the Insured Person or the Policyholder provides a written notice of that as soon as practicable ("<u>Circumstance Notification</u>"). If such Circumstance Notification is made during the Policy Period, any claim that is subsequently made will be treated as having been made during the Policy Period.</p>
<b>Third Party</b>	Any individual or legal entity, including without limitation, a state authority, RB Rail AS, RB Rail AS branches and RB Rail AS shareholders who have suffered losses in the result of the insurable event.
<b>Minimum Insurance cover extensions and sub-limits</b>	<p>Defence costs – up to full Limit of Liability.</p> <p>Emergency costs – up to 5% (five percent) of the total Limit of Liability.</p> <p>Regulatory crisis response expenses - sub-limited at least up to EUR 250,000.</p> <p>Reputation recovery costs – sub-limited at least up to EUR 100,000.</p> <p>Loss mitigation costs – sub-limited at least up to EUR 100,000.</p> <p>Assets and Liberty costs – sub-limited at least up to EUR 250,000.</p> <p>Extradition costs – sub-limited at least up to EUR 250,000.</p> <p>Insolvency hearing costs – sub-limited at least up to EUR 100,000.</p> <p>Personal liability for corporate taxes – sub-limited at least up to EUR 1,000,000.</p> <p>Environmental and Pollution claims defence costs – sub-limited at least up to EUR 250,000.</p> <p>Civil fines, Administrative fines and Penalties Extension – sub-limited at least to EUR 200,000 in the aggregate.</p> <p>Employment Practices Liability– sub-limited at least up to EUR 500 000.</p> <p>Bodily Injury/ Property Damage Defence Costs – sub-limited at least up to EUR 500 000.</p> <p>Advancement costs extension.</p> <p>Retired Insured discovery period extension.</p> <p>Discovery period extension as defined below.</p> <p>In cases other than those referred to in this sub-section, no sub-limits apply, i.e., total limit for each such case is up to the full Limit of Liability.</p> <p>If applicable laws limits the maximum amount of any of the aforementioned sub-limits, then it must be sub-limited to the extent permitted by law.</p>
<b>Retroactive Date</b>	28 October 2014
<b>Discovery Period</b>	Extended Discovery Period 90 days with no additional premium, but 3 years in the case, if this Policy is neither renewed nor replaced with the Insurer for any reason or the Limit of Liability will be reduced.

	The Policyholder may purchase additional Discovery Period for the additional premium of: up to 100% of the annual premium for the 12 months Discovery Period;
<b>Retired Directors</b>	The Insurer will provide an unlimited extended Discovery Period for any Insured Person who retires or resigns, other than by reason of a transaction or insolvency, during the Policy Period, provided that: <ul style="list-style-type: none"> <li>(i) this Policy is not renewed or replaced with any other Insured Person liability cover; or</li> <li>(ii) where this Policy is renewed or replaced with any other Insured Person liability cover, such renewal or replacement policy does not provide an extended discovery period of at least 6 (six) years for such retired Insured Persons.</li> </ul>
<b>Past Insured</b>	An Insured Person who during the Policy Period has retired from or ceased to hold an office as Insured Person other than an individual disqualified by an official, regulatory or judicial body or authority or court or arbitration, provided that there is no merger or acquisition and the Policyholder is not insolvent.  The Insurer will pay to or on behalf of a Past Insured any loss arising from any claim first made against them following the expiry date of the Policy Period for a wrongful act committed before the Insured Person ceases to hold the office of an Insured Person, provided that such a Past Insured is not covered by any other policy affording Directors and Officers or Management Liability Cover which renews or replaces this Policy further to its expiration.  Any claim shall be allocated to the last Policy Period and the remaining Limit of Liability shall apply.
<b>Insurance Territory</b>	Worldwide, excluding USA, Canada, Russia, Belarus and other countries with which it is prohibited for the Policyholder to cooperate on the basis of regulatory enactments.
<b>Trigger</b>	Under this insurance, the grounds for indemnification must be any written demand for monetary or non-monetary relief or any civil (including arbitration and other alternative dispute resolution), criminal, regulatory or administrative proceeding against an Insured Person for a wrongful act, deemed to be made upon receipt by or service upon the Insured Person, whichever is earlier within the Insurance Period or Extended Reporting (discovery) Period (if it is in force) - claims made policy.
<b>Representation</b>	Representative of Insured Person (sworn advocate) against the third-party claims shall be selected by the Insured Person. The Insurer can only object to the chosen representative in case there is plausible probability of occurrence of corruption, conflict of interest or other material irregularities.
<b>Payment of Insurance Premium</b>	The Insurance Premium payment shall be made within 30 (thirty) calendar days from the conclusion of the Contract and after receipt of all necessary documents (including but limited – Insurer's invoice).
<b>Payment of Insurance Indemnity</b>	The Insurance Indemnity payment shall be made within 90 (ninety) days from the moment the Insurer has received all requested and necessary documents and information from all parties from whom it would be reasonable to expect relevant documents and information.
<b>Deductibles</b>	Nil euros (EUR 0,00) for Insured Person's liability; Five thousand euros (EUR 5 000) Policyholder's reimbursement cover.
<b>Jurisdiction</b>	Policy and provision of Services (including without limitation any issues arising out of or in connection with negotiation, validity, enforceability or other non-contractual disputes) is in all respects to be construed in accordance with and governed by Latvian law only.



<b>Policyholder's financial information</b>	RB Rail AS Annual Report 2021 - <a href="https://www.railbaltica.org/wp-content/uploads/2022/05/RB-rail-AS-Annual-report-2021.pdf">https://www.railbaltica.org/wp-content/uploads/2022/05/RB-rail-AS-Annual-report-2021.pdf</a>
<b>Additional notes</b>	Verbatim of proposed insurance terms and definitions might differ from those in the Regulations for this Procurement, however the alternative verbatim shall not be narrower in scope than the terms of these Regulations or for this Procurement and should be aligned with and reflect the terms of the Regulations for this Procurement and its annexes (including this Technical Specification). In the event of discrepancies, the terms and definitions set herein shall prevail.

## ANNEX NO 2: APPLICATION

### APPLICATION FOR PARTICIPATION IN THE PROCUREMENT "DIRECTORS AND OFFICERS LIABILITY INSURANCE" (ID NO. RBR 2022/27)

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 <sup>8</sup>	
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:

- Confirms participation in the Procurement "Directors and Officers Liability Insurance", ID No RBR 2022/27.
- Confirms that, if the Tenderer will be awarded the Contract, the Tenderer will provide quality and timely performance of the contractual liabilities for the offered price and in accordance with the requirements of the Annex No 1 "Technical specification" and its Technical proposal.
- Indicates that (please indicate by ticking relevant box):
  - ☐ will reinsure the risks to reinsurer \_\_\_\_\_  
(name and registration number of reinsurer)
  - ☐ won't reinsure the risks to any reinsurer.
- Confirms that Regulations is clear and understandable, that it does not have any objections and complaints and that in the case of granting the right to enter into a Contract it will fulfil all conditions of the Regulations as well as enter into a Contract in accordance with the Draft contract enclosed with the Regulations (Annex No 6 "Draft contract").

<sup>8</sup> Tenderer registered or residing outside of Latvia, if applicable, shall indicate VAT payer registration number assigned by the State Revenue Service in Latvia.

5. Confirms that in the preparation and submission of its Proposal, Tenderer has fully considered all the clarifications issued by the Contracting authority.
6. 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.
7. Confirms that Tenderer's offered Services are free from all liens, interests or other rights of third parties;
8. Confirms that Tenderer is not under investigation in relation with and has not been charged for any unlawful activity.
9. Agrees that the Contracting authority reserves itself the right to reject any or all Proposals and cancel the Procurement before entry into Contract on the grounds specified in the Regulations or the law.
10. Guarantees that all information and documents provided are true.
11. Confirms<sup>9</sup> that meets the criteria of (please indicate by ticking relevant box):  
☐ a small                      ☐ medium                      ☐ other

sized enterprise<sup>10</sup> as defined in the Article 2 of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise.<sup>11</sup>

[date of signing]

[name and position of the representative of the Tenderer]

<sup>9</sup> Tenderer must indicate size of enterprise for each member of the partnership, if the Tenderer is a partnership.

<sup>10</sup> 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.

<sup>11</sup> 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](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: EXPERIENCE OF THE TENDERER

DESCRIPTION OF THE TENDERER'S EXPERIENCE FOR THE PROCUREMENT  
"DIRECTORS AND OFFICERS LIABILITY INSURANCE"  
(ID NO. RBR 2022/27)

No	Client, client's contact information for references (name of representative, phone, e-mail) <sup>12</sup>	Period of the contract (month/year – month/year)	Description of the services provided what characterize required experience, stated in Section 8.3.1 of the Regulations	Limit of liability for D&O risk (EUR)
1.				
2.				
3.				
n+1				

[date of signing]

[name and position of the representative of the Tenderer]

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<sup>12</sup> In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements set in Section 8.3.1 of the Regulations.

**ANNEX NO 4: OTHER ENTITIES ON WHOSE CAPACITY TENDERER RELIES**

**A LIST OF OTHER ENTITIES ON WHOSE CAPACITY TENDERER RELIES TO MEET THE REQUIREMENT OF THE  
PROCUREMENT  
"DIRECTORS AND OFFICERS LIABILITY INSURANCE"  
(ID NO. RBR 2022/27)**

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

[date of signing]

[name and position of the representative of the Tenderer]

## ANNEX NO 5: FINANCIAL PROPOSAL

### FINANCIAL PROPOSAL FOR THE PROCUREMENT "DIRECTORS AND OFFICERS LIABILITY INSURANCE" (ID NO. RBR 2022/27)

The Tenderer [*name of the Tenderer*] offers to deliver Services in accordance with the Annex No 1 "Technical specification" for the following costs<sup>13</sup>:

No	Services	Unit	Quantity	Unit price EUR, excl. VAT	Amount EUR, excl. VAT
1	Amount of Premium	year	1		*

Total price EUR (excl. VAT) in words: \_\_\_\_\_.

\* Contract price that will be evaluated in accordance with Section 18.2 of the Regulations.

Please provide the following information:

No	Services	Percent of annual premium	Amount EUR, excl. VAT
1	Extended discovery period (first year) <sup>14</sup>		

[date of signing]

[name and position of the representative of the Tenderer]

<sup>13</sup> When preparing the Financial proposal, the rules of Section 11 of the Regulations shall be considered.

<sup>14</sup> Please see the section "Discovery period" in the Technical specification.

**ANNEX NO 6: DRAFT CONTRACT****SERVICE AGREEMENT**

between

**RB Rail AS**

and

**[•]**Contract registration No **[•]**CEF<sup>15</sup> contract No **[•]****and future Grant  
Agreements to be  
signed**

Procurement identification No RBR 2022/27

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<sup>15</sup> Grant Agreement under the Connecting Europe Facility



## SERVICE AGREEMENT

This Service Agreement, together with all annexes thereto, (the "Agreement") enters into force on the day of its signing by both Parties. Considering that the Agreement has been signed by representatives of both Parties via a secure digital signature, the day of signing of the Agreement is considered as the date when the specific electronic file containing the Agreement has been duly signed with a secure digital signature by all required representatives of both Parties (i.e. the timestamp of the last digital signature required to enter into this Agreement shall be used as signing date (the "Effective Date"). Agreement is entered into force between:

- (1) **RB Rail AS**, a joint stock company registered in the Latvian Commercial Register with registration number 40103845025, legal address at Satekles iela 2B, Riga, LV-1050, Latvia (the "Policyholder"), represented by [•] acting on the basis of [•], on the one side,

and

- (2) [•], a [•] registered in the [•], with registration number [•], legal address at [•] (the "Insurer"), represented by [•] acting on the basis of [•], on the other side,

who are collectively referred to as the "Parties" and each separately – as the "Party".

WHEREAS:

- (A) This Agreement is entered into under the Global Project which includes all activities undertaken by the respective beneficiaries and implementing bodies of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania in order to build, render operational and commercialise the Rail Baltica railway – a new fast conventional double track electrified railway line according TSI INF P2-F1 criteria and European standard gauge (1435mm) on the route from Tallinn through Pärnu-Riga-Panevėžys-Kaunas to Lithuanian-Polish border, with the connection of Kaunas – Vilnius, and related railway infrastructure in accordance with the agreed route, technical parameters and time schedule (the "Global Project");
- (B) The Policyholder has organised procurement "Directors and Officers Liability Insurance" (identification No RBR 2022/27) (the "Procurement") whereby the Insurer's tender proposal (the "Insurer's Proposal") was selected as the winning bid;
- (C) This Agreement is co-financed from the Connecting Europe Facility (CEF).

### 1. Subject of the Agreement

- 1.1. The Policyholder shall order and pay, but the Insurer shall undertake to perform insurance of directors and officers liability of the Policyholder for the period 12 (twelve) calendar months as specified in Clause 2.1 and issue an insurance policy (the "Policy") in accordance with the Technical specification (Annex A: "Technical specification") and financial proposal of the Insurer for the Procurement (Annex B: "Insurer's Proposal"), as well as the terms and conditions of this Agreement, which shall become as integral parts of this Agreement, hereinafter - the "Service".
- 1.2. On the Effective Date, or on a later date if so agreed with the Policyholder, the Insurer shall issue a Policy to the Policyholder, which shall become as an integral part of this Agreement and shall come into force on 25 April 2023, 00:00 (Eastern European Time).
- 1.3. **The terms and conditions of the Policy and the terms and conditions which are added by the Insurer in the Annex B: "Insurer's Proposal" shall not be contrary to the terms and conditions of the other parts forming this Agreement. In case of contradiction or discrepancies, between Policy and/or terms and conditions which are added by the Insurer in the Annex B: "Insurer's Proposal" and the other parts forming this Agreement, the terms and conditions of the other parts forming this Agreement shall prevail.**
- 1.4. Upon signing this Agreement, the Insurer confirms that equal insurance coverage and limits of responsibility shall be ensured for the whole period of the Agreement and it shall not be entitled to terminate the Agreement during its validity term unless it is explicitly stated in the Clause 2.4 of the Agreement.

## 2. Validity Period and Validity of the Agreement

- 2.1. This Agreement shall be valid 24 (twenty-four) hours per day until the date when the Parties will have fulfilled their contractual obligations arising out of this Agreement. **The validity period of the Policy shall be from 25 April 2023 at 0:00 until 24 April 2024 at 23:59 (Eastern European time).**
- 2.2. Upon mutual agreement, the Parties shall be entitled to terminate this Agreement at any time.
- 2.3. The Policyholder shall be entitled to unilaterally terminate this Agreement before the expiry thereof by warning the Insurer on that in writing 15 (fifteen) calendar days in advance, if:
  - 2.3.1. the Insurer fails to fulfil the liabilities set in this Agreement or fulfils them in a part;
  - 2.3.2. the Insurer has been declared as insolvent, undergoes the restructuring, winding-up proceedings or bankruptcy proceeding under the court judgement;
  - 2.3.3. a licence for performance of insurance has been annulled for the Insurer;
  - 2.3.4. the contractual penalty calculated for the Insurer has reached the maximum amount set in the Agreement - 10% (ten percent) from the amount of the Premium referred to in Clause 3.1 of the Agreement;
  - 2.3.5. in other special cases, having reasonable grounds for that, by informing the Insurer on that in writing at least 30 (thirty) calendar days in advance.
- 2.4. The Insurer shall be entitled to unilaterally terminate this Agreement before expiry thereof by warning the Policyholder on that in writing 15 (fifteen) calendar days in advance, if:
  - 2.4.1. the Policyholder undergoes the winding-up proceedings;
  - 2.4.2. the contractual penalty calculated for the Policyholder has reached the maximum amount set in the Agreement - 10% (ten percent) from the amount of the Premium referred to in Clause 3.1 of this Agreement.
- 2.5. Upon terminating the Agreement in an unilateral manner, in accordance with Clauses 2.3 and 2.4 of the Agreement, the Insurer shall pay back to the Policyholder a part of the unused Premium, which shall be proportional with the remaining validity period of the Policy, without deducting expenses for administrative expenses, by making the repayment within 10 (ten) working days from the day of receipt of the submission of the Policyholder.
- 2.6. In case of need the Policyholder may request to prolong the insurance period for 1 (one) calendar month and in total not exceeding 10% (ten percent) from the amount referred to in Clause 3.1 of this Agreement.

## 3. Insured Amount and Premium

- 3.1. The Policyholder shall pay to the Insurer the insurance premium (the "Premium") in the amount of EUR [•] ([•] euros [•] cents) for the provision of the Service and the Insurer, upon occurrence of the insured event, shall pay the insurance indemnity.
- 3.2. The Policyholder shall pay the Premium for the Service provided by the Insurer - insurance of liability of directors and officials, excluding VAT, in accordance with Section 52, Paragraph 1, Clause 20 of the Value Added Tax Law of the Republic of Latvia.
- 3.3. In case if regulatory enactments of the Republic of Latvia changes during the validity period of the Agreement and the Services provided by the Insurer are taxable with VAT, the Policyholder shall pay them in addition, and the amounts included in the Agreement shall be considered as the ones that exclude the value added tax.
- 3.4. The Premium shall include all expenses in relation to provision with insurance, except for expenses of the event stipulated in Clause 3.3 of the Agreement.
- 3.5. The Policyholder shall pay the Premium within 30 (thirty) calendar days after the Effective Date and the day of receipt of the invoice issued by the Insurer, to the current account specified in the invoice.
- 3.6. The Insurer's invoices shall contain the following Policyholder's details and details about the Agreement:

Insurer	
Registration No	
VAT payer's No or indication that the	

Insurer is not a VAT payer	
The Policyholder's VAT No	
Legal address (street, house, area, country, postcode)	
Name of Bank (legal name)	
Bank SWIFT Code	
IBAN	

- 3.7. The day on which the payment made by Policyholder is registered with the bank shall be deemed to be the day of execution of the payment (payment date).
- 3.8. The Insurer shall send the invoice to the Policyholder electronically to the following e-mail address: [invoices@railbaltica.org](mailto:invoices@railbaltica.org). The Parties agree that the invoices should be submitted only electronically and that the invoice should not contain the requisite "signature".

#### 4. Rights and Obligations of the Parties

- 4.1. The Policyholder shall:
- 4.1.1. comply with the terms and conditions of the Agreement;
  - 4.1.2. undertake to provide the Insurer with all information necessary for fulfilment of the Agreement;
  - 4.1.3. pay the Premium referred to in Clause 3.1 of this Agreement, in accordance with the terms and conditions of this Agreement;
  - 4.1.4. be entitled to attract expert for evaluation of the insured event;
  - 4.1.5. in case if the Policyholder has not showed any objections regarding the decision taken on indemnity within 10 (ten) calendar days from the receipt of the decision made, it shall be deemed that it agrees with the decision made;
  - 4.1.6. within 10 (ten) workings days after occurrence of the insured event has come to the attention of the management board of the Policyholder, notify the Insurer on the occurrence of the insured event by sending information on the insured event to e-mail address of the Insurer.
- 4.2. The Insurer shall:
- 4.2.1. ensure proper quality of the Service, in accordance with the Insurer's Proposal submitted to the Policyholder and provisions of the present Agreement;
  - 4.2.2. undertake to precisely comply with and fulfil the provisions of the Agreement in a timely manner;
  - 4.2.3. pay the insurance indemnity, in accordance with the amount, procedure and terms set in the Insurance Contract Law of the Republic of Latvia and this Agreement;
  - 4.2.4. in case of occurrence of the insured event, make a decision regarding disbursement of the insurance indemnity and disburse the insurance indemnity within 90 (ninety) calendar days after the day of receipt of all necessary documents, which prove the occurrence of the insured event and the amount of losses;
  - 4.2.5. in case of termination of the Policy in accordance with the procedure referred to in Clause 2.5 of the Agreement the Insurer shall pay back a part of the unused Premium in proportion with the remaining validity period of the Policy, without deducting expenses for administrative expenses;
  - 4.2.6. provide that the insurance conditions (attached as part of Annex B: "Insurer's Proposal") shall remain unchanged for the whole validity period of the Agreement;
  - 4.2.7. not be entitled to refuse to disburse the insurance indemnity within the term set in Clause 4.2.4 of the Agreement;
  - 4.2.9. receive the Premium, in accordance with the provisions of Clause 3.1 of the Agreement;
  - 4.2.10. if the Policyholder fails to agree with the amount of losses calculated by the Insurer pursuant to agreement between the Parties, the Insurer may disburse a part of the insurance indemnity up to the amount that is not disputed by any of the Parties, until making payment of loss in full;

4.2.11. be compliant with all of the requirements of the Supplier's Declaration<sup>16</sup> and will continue to be compliant with all such requirements during the term of this Agreement.

## **5. Responsibility of the Parties**

- 5.1. The Policyholder and the Insurer confirm by mutual signing of the Agreement that there are no circumstances prohibiting the Parties to enter into this Agreement.
- 5.2. The Insurer confirms of having all necessary rights in order to provide the Service in accordance with the terms and conditions of this Agreement.
- 5.3. Upon entering into the present Agreement, the Insurer confirms of being informed and evaluated all risks covered.
- 5.4. The Parties shall be responsible for failure to fulfil the Agreement or improper fulfilment thereof, as well as for losses caused to the other Party, if they have occurred as a result of activity or inactivity of one Party or employees thereof, as well as activities or neglect caused as a result of gross negligence and evil intent. The Party at fault shall compensate to the other Party the occurring losses.
- 5.5. The Insurer shall have an obligation to prove any circumstances, exempting it from the liabilities set in the Agreement to disburse the insurance indemnity.
- 5.6. If the Insurer fails to provide the Service, in accordance with the terms and conditions of the Agreement, which is reflected in non-compliance of the terms set in this Agreement, the Policyholder is entitled to request the Insurer to pay to the Policyholder a contractual penalty in the amount of 0.1% (one tenth of a percent) from the annual Premium for each day of delay. The total amount of the contractual penalty shall not exceed 10 % (ten percent) from the amount of the Premium.
- 5.7. If the Policyholder fails to make the payment of the Premium, in accordance with the terms and conditions of this Agreement, the Insurer is entitled to request the Policyholder to pay to the Insurer a contractual penalty in the amount of 0.1 % (one tenth of a percent) from the Premium of the Agreement for each day of delay. The total amount of the contractual penalty shall not exceed 10 % (ten percent) from the amount of the Premium.
- 5.8. Payment of the contractual penalty shall not exempt the Parties from fulfilment of liabilities of this Agreement.

## **6. Right to audit and on-the-spot visits**

- 6.1. A reputable outside independent body or expert engaged and authorized by the Policyholder shall be entitled during 10 (ten) years following expiration or termination of this Agreement to inspect and/or audit the Insurer to ensure compliance with the terms of this Agreement, including inspecting and/or auditing:
  - 6.1.1. the performance of any aspect of the Service; and/or
  - 6.1.2. any documentation, including all payrolls, accounts of the Insurer and/or other records used in or related to the performance of the Services.
- 6.2. By submitting a written notice 5 (five) working days in advance, the Policyholder may carry out on-the-spot visits to the sites and premises where the activities implemented within the Agreement are or were carried out with having an access to all the information and documents, including information and documents in electronic format, which is requested by the authorised staff of the performer of the on-the-spot visit, as well as shall allow the authorised staff of the performer of the on-the-spot visit the copying of the information and documents, with due respect to the confidentiality obligation.
- 6.3. By virtue of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities, Regulation (EU, Euratom) No 883/2013 of the European Parliament and the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 and other legislation and documentation relating to European Union grant awarding and subsequent monitoring processes, the European Commission; the European Anti-Fraud Office; the European Climate, Infrastructure and Environment Executive Agency; the European Court of Auditors and other European Union institutions and bodies might perform checks, reviews, audits and investigations towards the Insurer in case such activities are related to the use of grants awarded.

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<sup>16</sup> Appendix 6 to the Common Procurement Standards and Guidelines for the Rail Baltica Project, that can be found here: [https://www.railbaltica.org/wp-content/uploads/2021/06/APPENDIX-6\\_SUPPLIERS-DECLARATION\\_June\\_2021.pdf](https://www.railbaltica.org/wp-content/uploads/2021/06/APPENDIX-6_SUPPLIERS-DECLARATION_June_2021.pdf)

## 7. Governing law and resolution of disputes

- 7.1. This Agreement shall be governed by and construed in accordance with the law of the Republic of Latvia.
- 7.2. The Parties shall first attempt to settle any dispute, controversy or claim arising out of or relating to this Agreement by way of amicable negotiations.
- 7.3. Should the Parties fail to agree by means of amicable negotiations within the time period of 30 (thirty) days from the date of serving of the respective written complaint to the other Party, the Parties shall submit all their disputes arising out of or in connection with this Agreement to the exclusive jurisdiction of the courts of the Republic of Latvia.

## 8. Force Majeure

- 8.1. Subject to the requirements set forth in accordance with Clause 8.2 and 8.3 of the Agreement, each Party shall be relieved from liability for non-performance of its obligations under this Agreement (other than any obligation to pay) to the extent that the Party is not able to perform such obligations due to an event that meets all the following criteria (the "Force Majeure Event"):
  - 8.1.1. It is an event that cannot be avoided and whose consequences cannot be overcome;
  - 8.1.2. It could not be foreseen at the time when the Agreement was concluded;
  - 8.1.3. It was not caused by the act of the affected Party or a person under its control;
  - 8.1.4. It makes it impossible to fulfil the obligation arising from the Agreement.
- 8.2. Each Party shall at all times, following the occurrence of a Force Majeure Event:
  - 8.2.1. take reasonable steps to prevent and mitigate the consequences of such an event upon the performance of its obligations under this Agreement;
  - 8.2.2. resume performance of its obligations affected by the Force Majeure Event as soon as practicable and use reasonable endeavours in accordance with Good Industry Practice to remedy its failure to perform; and
  - 8.2.3. not be relieved from liability under this Agreement to the extent that it is not able to perform, or has not in fact performed, its obligations under this Agreement due to any failure to comply with its obligations under Clause 8.1 of this Agreement.
- 8.3. Upon the occurrence of a Force Majeure Event, the affected Party shall notify the other Party as soon as reasonably practicable and in any event within 3 (three) working days of it becoming aware of the relevant Force Majeure Event. Such notification shall give sufficient details to identify the particular event claimed to be a Force Majeure Event and shall contain detailed information relating to the failure to perform (or delay in performing), including the date of occurrence of the Force Majeure Event, the effect of the Force Majeure Event on the ability of the affected Party to perform, the action being taken in accordance with Clause 8.2 of the Agreement and an estimate of the period of time required to overcome the Force Majeure Event. The affected Party shall provide the other Party with any further information it receives or becomes aware of which relates to the Force Majeure Event and provide an update on the estimate of the period of time required to overcome its effects.
- 8.4. The affected Party shall notify the other Party as soon as practicable once the performance of its affected obligations can be resumed (performance to continue on the terms existing immediately prior to the occurrence of the Force Majeure Event).
- 8.5. As soon as practicable after the notification specified pursuant to Clause 8.4 of the Agreement, the Parties shall use reasonable endeavours to agree appropriate terms or modifications to the scope of Service to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Agreement.

## 9. Confidentiality

- 9.1. Confidential Information means, in relation to the Policyholder, all information of a confidential nature relating to the Policyholder and its affiliates which is supplied by the Policyholder (whether before or after the date of this Agreement) to the Insurer, either in writing, orally or in any other form and includes all analyses, compilations, notes, studies, memoranda and other documents and information which contain or otherwise reflect or are derived from such information (the "Confidential Information"), but excludes information which:
  - 9.1.1. the Policyholder confirms in writing is not required to be treated as confidential;
  - 9.1.2. the Insurer can show that the Confidential Information was in its lawful possession or known to it (by being in its use or being recorded in its files or computers or other recording



- media) prior to receipt from the Policyholder and was not previously acquired by the Insurer from the Policyholder under an obligation of confidence; or
- 9.1.3. was developed in a lawful way by or for the Insurer at any time independently of this Agreement.
- 9.2. The Insurer shall (i) at all times keep confidential all Confidential Information received by it and shall not disclose such Confidential Information to any other person, and (ii) procure that its affiliates and its and their respective officers, employees and agents shall keep confidential and not disclose to any person any Confidential Information except with the prior written consent of the Policyholder.
- 9.3. Notwithstanding anything to the contrary set forth in accordance with this Section 9, the Insurer shall, without the prior written consent of the Policyholder, be entitled to disclose Confidential Information:
- 9.3.1. that is reasonably required by the Insurer in the performance of its obligations pursuant to this Agreement, including the disclosure of any Confidential Information to any employee, contractor, agent, officer, Sub-Contractor (of any tier) or adviser to the extent necessary to enable the Insurer to perform its obligations under this Agreement (subject to the same confidentiality undertakings by the recipients);
- 9.3.2. to enable a determination to be made pursuant to Section 6;
- 9.3.3. to its lenders or their professional advisers, any rating agencies, or its insurance advisers but only to the extent reasonably necessary to enable a decision to be taken on the proposal (subject to the same confidentiality undertakings by the recipients);
- 9.3.4. to the extent required by applicable laws or pursuant to an order of any court of competent jurisdiction, any parliamentary obligation or the rules of any stock exchange or governmental or regulatory authority having the force of law; or
- 9.3.5. to the extent Confidential Information has become available to the public other than as a result of any breach of an obligation of confidence, provided that any such disclosure is made in good faith.
- 9.4. Upon request of the Policyholder, the Insurer shall:
- 9.4.1. return to the Policyholder all of the Confidential Information then within the possession or control of the Insurer; or
- 9.4.2. destroy such Confidential Information using a secure and confidential method of destruction.
- 9.5. Save as required by the applicable laws, the Insurer shall not issue any press release in relation to the matters contemplated under this Agreement without the prior written consent of the Policyholder as to both the content and the timing of the issue of the press release.
- 9.6. The Parties acknowledge and agree that a breach of the provisions of this Section 9 may cause the Policyholder irreparable damages that could not be adequately remedied by an action at law. Accordingly, the Insurer agrees that the Policyholder is entitled to specific performance of those provisions to enjoin a breach or attempted breach thereof and to any other remedy, including, inter alia, damages and injunctive relief, awarded by a court of competent jurisdiction.

## 10. Visibility Requirements

- 10.1. At all times during provision of the Service, the Insurer undertakes to comply with each of the following requirements:
- 10.1.1. Any report, brochure, document or information related to the Service provided by the Insurer to the Policyholder or any other person which the Insurer makes publicly available shall include each of the following:
- 10.1.1.1. a funding statement which indicates that the Service is financed from CEF funds substantially in the following form: "Co-financed by the Connecting Europe Facility of the European Union";
- 10.1.1.2. with respect to printed materials, a disclaimer releasing the European Union from liability with respect to any contents of any distributed materials substantially in the form as follows: "The sole responsibility of this publication lies with the author. The European Union is not responsible for any use that may be made of the information contained therein". The disclaimer in all official languages of the European Union can be viewed on the website <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>; and
- 10.1.1.3. the flag of the Council of Europe and the European Union.
- 10.1.2. Requirements set forth in Clause 10.1.1.1 and 10.1.1.3 of the Agreement can be fulfilled by using the following logo:



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

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

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

(a)

### 11. Authorised Persons of the Parties

- 11.1. During the control of fulfilment of the Agreement the responsible person of the Policyholder shall be: [•], telephone number [•], e-mail address: [•].
- 11.2. During the control of fulfilment of the Agreement the responsible person of the Insurer shall be: [•], telephone number [•], e-mail address: [•].

### 12. Final Provisions

- 12.1. In case if any of the provisions of the Agreement becomes void as a result of amendment to regulatory enactments, this Agreement shall not become void with regard to other Clauses thereof. In such a case the Parties shall apply the Agreement in accordance with the effective regulatory enactments.
- 12.2. In case if details for any of the Parties or contact persons of the Parties or contact information thereof set in Section 11 of the Agreement are changed, the relevant Party shall notify the other Party on that in writing within 5 (five) working days from the day of occurrence of such changes. After receipt of the notification it shall become as an integral part of the Agreement. If the Party fails to fulfil the provisions of the present Clause, it shall be deemed that the other Party has fulfilled its liabilities in full by using the information available in this Agreement regarding the other Party.
- 12.3. In case of reorganisation of the Parties, this Agreement shall remain valid and the provisions thereof shall be binding to the legal successor thereof. The Party shall warn the other Party in writing on the occurrence of such circumstances ten days in advance.
- 12.4. The Parties shall agree in writing on amendments or supplementations to the Agreement, except for the case of information change referred to in Clause 12.2 of this Agreement. The written agreements shall be signed and prepared in two copies, one copy for each of the Parties, and shall be enclosed with this Agreement as an integral part thereof.
- 12.5. Information exchange between the Parties may be performed also by using e-mails, which shall become as integral parts of the Agreement, except for terms and conditions of the Agreement, which provides for information exchange in the written form.
- 12.6. The Parties shall not be entitled to deliver their rights and obligations related to this Agreement and arising from that to third persons.
- 12.7. For the purpose of execution of this Agreement, the Parties might transfer to each other certain personal data, such as data on employees of the Parties, data on suppliers, the Global Project stakeholders and their employees etc. The Party transferring to the other Party certain personal data shall be responsible for informing and, if necessary, obtaining the consent of the data subject for the processing of the personal data. The Parties acknowledge that for the purpose of the Agreement each of the Parties shall act as a controller. The Party shall transfer the personal data to the other Party and such other Party shall process the personal data only for the purposes of execution of the Agreement and other such purposes as required by applicable laws. The Parties agree that except where the Party has a separate legal basis for processing the personal data referred to in the applicable laws governing the protection of personal data, the Party shall not process the personal data for any other purpose.
- 12.8. Annexes to this Agreement shall become as an integral part of this Agreement.
- 12.9. This Agreement is prepared as an electronic document.

### 13. Details and Signatures of the Parties

For and on behalf of the Policyholder:

For and on behalf of the Insurer:

Name, title: [.]  
Bank details: AS "Luminor Bank"  
RIKOLV2X  
LV32RIKO0000084270995

Name, title: [.]  
Bank details: [.]

**THIS DOCUMENT IS SIGNED ELECTRONICALLY WITH A SAFE ELECTRONIC SIGNATURE AND CONTAINS A  
TIME STAMP**



## **Annex A: "Technical specification"**

[.]

## **Annex B: "Insurer's Proposal"**

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