

STUDY AGREEMENT

**for technical study and design proposals for Rail Baltica infrastructure maintenance facilities
between**

RB Rail AS

and

**partnership formed by ARDANUY INGENIERÍA, S.A. and INGENIERÍA Y ECONOMÍA DEL TRANSPORTE,
S.M.E. M.P., S.A.**

Contract registration number **8/2018-73**

CEF¹ Contract No INEA/CEF/TRAN/M2016/1360716 **C04A**

Procurement procedure identification No **RBR 2018/25**

Riga

Dated 27.12.2018

¹ Grant Agreement under the Connecting Europe Facility

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STUDY AGREEMENT

This STUDY AGREEMENT (the "Agreement"), together with all Annexes thereto, is entered into in Riga, on December 27 of the year 2018 (the "Effective Date") by and between:

RB Rail AS, a joint stock company registered in the Latvian Commercial Register registration No 40103845025, legal address at Krišjāņa Valdemāra iela 8-7, Riga, LV-1010, Latvia (the "Principal"), represented by Chairman of the Management Board Ignas Degutis and Management Board Member Mart Nielsen acting on the basis of the Regulations on Representation Rights dated 25 May 2018, on the one side,

and

partnership formed by ARDANUY INGENIERÍA, S.A., a company organized and existing under Spanish law with registration number M-83764, having its registered address at Avenida Europa, 34 Edificio B, 28023 Madrid, Spain, and **INGENIERÍA Y ECONOMÍA DEL TRANSPORTE, S.M.E. M.P., S.A.**, a company organized and existing under Spanish law with registration number M-85151, having its registered address at Paseo de la Habana 138, 28036 Madrid, Spain (the "Contractor"), represented by authorized person Jevgenijus Pičuginas acting on the basis of Authorization dated 16 September 2017 on the other side.

WHEREAS:

- (A) This Agreement is entered into under the Global Project which includes all activities undertaken by the respective beneficiaries and implementing bodies of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania in order to build, render operational and commercialise the Rail Baltica railway – a new fast conventional double track electrified railway line according TSI INF P2-F1 criteria and European standard gauge (1435mm) on the route from Tallinn through Pärnu-Riga-Panevėžys-Kaunas to Lithuanian-Polish border, with the connection of Kaunas – Vilnius, and related railway infrastructure in accordance with the agreed route, technical parameters and time schedule;
- (B) The Principal has organised procurement procedure "Technical Study and Design Proposals for Rail Baltica Infrastructure Maintenance Facilities" (identification No RBR 2018/25) (the "Procurement Procedure") whereby the Contractor's tender proposal (the "Contractor's Proposal") was selected as the winning bid;
- (C) This Agreement is co-financed from the Connecting Europe Facility (CEF), CEF Contract No INEA/CEF/TRAN/ M2016/1360716, Action No 2016-EU-TMC-0116-M, Activity No. 4, Sub-activity 1.

Section I. Definitions and Interpretation

- 1.1. *Definitions.* In this Agreement, unless the context requires otherwise, all Definitions shall have the meanings as described to such terms in accordance with *Annex A: Definitions and common terms*.
- 1.2. *Interpretation.*
 - (a) The headings contained in this Agreement shall not be used in its interpretation.
 - (b) References to the singular shall include references in the plural and vice versa, words denoting a gender shall include any other gender where the context requires, and words denoting natural persons shall include any other Persons.
 - (c) References to a treaty, directive, regulation, law or legislative provision shall be construed, at any particular time, as including a reference to any modification, extension or re-enactment of the respective treaty, directive, regulation, law or legislative provision at any time then in force and to all subordinate legislation enacted from time to time.
 - (d) In the event there arises a conflict between provisions of the Agreement, the last provision to have been written chronologically shall take precedence.
 - (e) Any reference in this Agreement to a Person acting under the direction of another Person shall not include any action that is taken in contravention of any Applicable Law or Standards, unless the relevant Person can demonstrate that an explicit instruction or direction was given to take the relevant action.

- (f) Unless expressly stated to the contrary, any reference in this Agreement to the right of consent, approval or agreement shall be construed such that the relevant consent, approval or agreement shall not be unreasonably delayed or withheld. The Parties agree and acknowledge as follows:
 - (i) neither Party shall be required to seek or apply for any consent, approval or agreement by any Person which would place the respective Party in breach of the Applicable Law or any Good Industry Practice; and
 - (ii) nothing in this Agreement shall require the Principal to give or procure the giving of any consent or approval which would be contrary to the protection, safety and efficient operation of the Railway and the Project.
 - (g) A reference to “writing” shall include an e-mail transmission and any means of reproducing words in a tangible and permanently visible form.
 - (h) The words “include” and “including” are to be construed without limitation.
 - (i) Unless indicated otherwise, all references to “days” shall mean calendar days.
 - (j) The words in this Agreement shall bear their natural meaning, except for any Definitions in accordance with *Annex A: Definitions and common terms*.
- 1.3. *Order of Precedence*. In the event of any discrepancy or inconsistency between the documents forming part of this Agreement, the following order of precedence shall apply:
- (a) this Agreement document;
 - (b) Explanations (clarifications) of the procurement documentation;
 - (c) Procurement documents with the annexes (including Technical specifications (Scope of Service));
 - (d) Clarifications of the Contractor’s Proposal;
 - (e) Contractor’s Proposal;
 - (f) All other Annexes of the Agreement.

Section II. General terms and conditions

- 2.1 *Engagement*. The Principal hereby engages the Contractor to provide and perform the Study for the purposes of the Project, as further described and according to the specifications contained *Annex B: Technical Specification* to this Agreement, and the Contractor hereby accepts such engagement. The Study shall result in the provision to the Principal of the Deliverables identified in accordance with *Annex C: Schedule of the Study* to this Agreement.
- 2.2 *Co-Operation of the Parties*. The Parties shall cooperate with one another to fulfil their respective obligations under this Agreement. Both Parties shall endeavour to maintain good working relationships among all key personnel engaged toward provision of the Study.
- 2.3 *Licensing Requirements*. By signing this Agreement, the declaration is made by the Contractor that the Contractor is professionally qualified, registered, and licensed to practice in the Republic of Spain.
- 2.4 *General Obligations of Contractor*. The Contractor shall be responsible for the professional quality, technical accuracy, and coordination of all concepts, programming, reports, designs, drawings, specifications, and other services furnished under this Agreement. The Contractor shall have an obligation, without additional compensation of any kind, to correct or revise any errors, deficiencies, or omissions in concepts, programming, reports, designs, drawings, specifications, estimates, and other services rendered hereunder and forming part of the Study.
- 2.5 *Acceptance Not a Waiver*. The Principal’s review, approval, acceptance, or payment for the Works forming part of the Study shall not be interpreted or construed to operate as a waiver of any right or cause for action arising out of the Contractor’s performance of any Works under this Agreement. The Contractor shall remain liable to the Principal as allowed under this Agreement and under Applicable Law for any and all costs and/or Damages caused by the Contractor’s negligent performance of any of the Works and Study furnished under this Agreement.

Section III. Responsibilities of Principal

- 3.1. *Supply of Information*. Unless otherwise provided under this Agreement, the Principal shall, in a timely manner, provide to the Contractor any information regarding requirements and parameters of the Project, as may

reasonably be requested by the Contractor for the purposes of the Study, provided that the Principal is in possession of such information. The Principal shall furnish to the Contractor a preliminary Project program setting forth the Principal's objectives, schedule, constraints and criteria, including necessities and relationships, special equipment, systems and site requirements.

- 3.2. *Review of Documentation.* The Principal shall examine Documentation as may be submitted by the Contractor for review by the Principal toward partial completion of the Study and, upon request of the Contractor, shall render decisions and opinions pertaining thereto.
- 3.3. *Decisions.* On all matters properly referred to it in writing by the Contractor the Principal shall give its decision in writing so as not to delay the Study and within a reasonable time. The Principal is not limited to provide any answer and information to the Contractor by e-mail.
- 3.4. *Accounting and Auditing Services.* The Principal shall furnish accounting and auditing services as may be necessary for the Study as the Principal may require to ascertain how and/or for what purposes the Contractor has used the funds paid under the terms of this Agreement.
- 3.5. *Action Upon Becoming Aware of Defects.* In the event the Principal observes or otherwise becomes aware of any error, fault, omission, or defect in the Study or non-conformance of any action forming part of the Study with the Documentation or information, the Principal shall give prompt notice thereof to the Contractor. The Contractor shall have the obligation to correct such error, fault, omission, or defect in the Study or non-conformance of any action forming part of the Study.

Section IV. Responsibilities of Contractor

- 4.1. *Standard of Performance.* The Contractor's services shall be performed as expeditiously as is consistent with professional skill and care, orderly progress of the Study, and in accordance with the Schedule of Study set forth in accordance with *Annex C: Schedule of the Study*.
- 4.2. *Drawing Requirements.* The Contractor shall furnish to the Principal, two (2) hard copies of prints of each drawing and one (1) electronic media drawing file of each drawing, configured according to conditions stipulated in *Annex B: Technical Specification*, if such drawings shall be produced and furnished to the Principal.
- 4.3. *Obligation to Act in Accordance with Principal's Comments.* In performing the Study, the Contractor shall have due regard to any comments made by the Principal in connection with any review of the Documentation or information furnished by the Principal and shall provide reasons to the Principal where it does not take into account any such comments.
- 4.4. *Duty of Care and Exercise of Authority.* The Contractor shall:
 - (a) in performing its obligations under this Agreement, exercise reasonable professional skill, diligence and care as may be expected of a properly qualified and competent person carrying out services of a similar size, nature, type and complexity;
 - (b) ensure that its personnel are properly qualified and competent in accordance with the relevant Standards;
 - (c) ensure that all maps, drawings, plans, specifications, estimates, surveys and other documents and information required to be prepared or submitted by the Contractor under this Agreement conform to Good Industry Practice generally acceptable at the time of submission of such maps, drawings, plans, specifications, estimates, studies, documents and information;
 - (d) at all times during the term of the Study, ascertain and comply with all Applicable Laws and Good Industry Practice of the Republic of Latvia;
 - (e) comply, where applicable, with any reasonable requirements of the Principal not otherwise provided for in this Agreement;
 - (f) ensure that all designs are performed, and that the design process is documented, and all documents and information is furnished in accordance with Good Industry Practice, and using conventional industry quality control methods; and
 - (g) notify the Principal of any Defects in accordance with Clause 7.3 of this Agreement as soon as such Defects are identified by the Contractor.
- 4.5. *Maintenance of Records.* During the term of the Study and during eleven (11) years from expiration or termination of this Agreement for any reason whatsoever, the Contractor shall keep and maintain clear,

adequate and accurate records and Documentation evidencing, to the reasonable satisfaction of the Principal, that the Study has been and is being carried out in accordance with the Standards. In case of on-going audits, appeals, litigation or pursuit of claims concerning the grant, including in the case of correction of systemic or recurrent errors, irregularities, fraud or breach of obligations, the records shall be kept and maintained longer.

4.6. *Access to Documentation.* At all times during the term of the Study, the Principal shall have access to all Documentation. This access shall be continuing and survive the termination of this Agreement for either cause or convenience. The Documentation shall be kept to be accessed in a generally recognized format for a period of eleven (11) years from the date of expiration or termination of this Agreement. All records forming part of the Documentation shall be available to the Principal auditor, or expert appointed by the Principal during the period of time specified in accordance with this Clause 4.6.

4.7. *Right to Sub-Contract and Staff.*

- (a) In carrying out the Study, the Contractor may only rely on the services of those Approved Sub-Contractors and Staff listed in *Annex E: List of approved Sub-Contractors and Staff*, as such list may, from time to time, be modified or supplemented in agreement with the Principal and in accordance with the terms and subject to the criteria contained in the applicable Public Procurement Law of the Republic of Latvia. Parties shall specify the name, contact details and legal representative(s) of each Approved Sub-Contractor as of the Effective Date in *Annex E: List of approved Sub-Contractors and Staff*. The Contractor shall have an obligation to notify the Principal in writing of any changes to Sub-Contractor or Staff data specified in *Annex E: List of approved Sub-Contractors and Staff* occurring during the term of this Agreement and of the required information for any new Sub-Contractors or Staff member which it may subsequently engage toward provision of the Study.
- (b) Pursuant to the Public Procurement Law of the Republic of Latvia the Contractor shall obtain prior written consent of the Principal for the replacement of each Sub-contractor or each Staff member, or each key personnel indicated in *Annex E: List of approved Sub-Contractors and Staff* and involvement of additional Sub-contractors or Staff members, or key personnel.
- (c) Review and evaluation of the replacement of Sub-contractors or Staff shall be carried out, and the consent or refusal to give consent shall be rendered by the Principal in accordance with Section 62 of the Public Procurement Law of the Republic of Latvia.
- (d) The Contractor shall not involve employee and/or staff, including but not limited to key office-holders, key personnel (Project manager, Railway infrastructure maintenance expert, Civil engineer in 1435 mm railway track design, Environmental expert, Civil engineer in buildings and structures design) (if any) who have a criminal record, in the implementation of the Agreement.
- (e) The Contractor shall submit to the Principal the name, surname, personal code (identification number), professional title (job position) of every person that will implement the Agreement and/or will be present on site at least 10 (ten) working days prior involvement of this person in the implementation of the Agreement and/or its presence on site. The Contractor shall provide a brief (concise) description of duties towards the implementation of the Agreement of the persons, and, if requested by the Principal.
- (f) The Principal has a right to demand dismissal of such a natural person non-compliant with the security clearance requirements stipulated in this Clause 4.7 at the Principal's sole discretion on the basis of the Principal's written request for dismissal. Parties agree that such Principal's decision is in-contestable.
- (g) The Contractor shall replace the Sub-contractor and/or Staff member which, during the effectiveness of this Agreement, meets any of the compulsory grounds for exclusion of tenderers (or sub-contractors) that were verified during the Procurement Procedure and/or the Principal has demanded his/her dismissal. The Contractor shall immediately undertake all the necessary actions and measures to ensure that any risk of involvement of such a natural person in the implementation of the Agreement is promptly and duly eliminated.
- (h) In case mentioned in Clause 4.7 (f) the Contractor is obliged:
 - (i) to prevent involvement of such a natural person in the implementation of the Agreement, and to prevent the presence of this person in the real estate, construction site or any other site, and
 - (ii) to immediately replace the dismissed person according to Section 62 of the Public Procurement Law of the Republic of Latvia and the Agreement, and
 - (iii) to comply with the Principal's written instructions pursuant to this Clause 4.7 and not to challenge these instructions, and

- (iv) to inform the Principal about dismissal or replacement proceedings pursuant to this Clause 4.7.
 - (i) In case if the immediate dismissal or replacement of the dismissed natural person non-compliant with the security clearance requirements stipulated in this Clause 4.7 results in the unreasonable increase of the costs towards the Contractor, the Contractor shall immediately inform the Principal about this fact in written and the Parties shall agree upon the conditions of the provision of the Services.
 - (j) The Contractor's non-compliance with the security clearance requirements stipulated in this Clause 4.7, the Principal's instructions towards the Contractor regarding these security clearance requirements or other provisions of this Clause 4.7 constitutes a material breach (breach of a material term or condition) of the Agreement.
- 4.8. *Responsibility for Performance by Sub-Contractors and Staff.* The Contractor shall retain the complete responsibility for the proper performance of all of its obligations under this Agreement, and any act, failure to act, breach or negligence on the part of any of its Approved Sub-Contractors and Staff shall, for the purposes of this Agreement, be deemed to be the act, failure to act, breach or negligence of the Contractor.
- 4.9. *No Conflicting Activity.* Except with the Principal's knowledge and express written permission, the Contractor shall not engage in any activity, or accept any employment, other agreement, interest, or contribution that would reasonably appear to compromise the Contractor's professional judgment and performance with respect to the Study and/or the Project. In performing the Study, the Contractor shall take all necessary measures to prevent any situation where the impartial and objective implementation of the Study is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest.
- 4.10. *Attendance of Meetings.* To the extent necessary to ensure smooth and efficient provision of the Study, the Contractor shall, at the Principal's request, hold and/or attend meetings with any persons. The Contractor shall arrange Study's communication's planning meetings on weekly, monthly and quarterly bases (or more frequently, to the extent mutually agreed by the Parties) as described in *Annex B: Technical Specification*, at which appropriate personnel of the Contractor and the Principal and the Representatives of each Party shall be present. The Contractor shall record all meetings (also online meetings) between Parties and prepare meeting reports within five (5) Working Days after each meeting. All meeting reports shall be harmonized by Principal.
- 4.11. *Compliance with Laws.* The Contractor shall review the Applicable Laws that is applicable to the Contractor's services. In carrying out any activities forming part of the Study, the Contractor shall, at all times, ensure compliance with requirements imposed by supra-national and/or governmental authorities having jurisdiction over the Project.
- 4.12. *Information Furnished by Principal.* The Contractor shall be entitled to rely on the accuracy and completeness of services and information furnished by the Principal. The Contractor shall provide prompt written notice to the Principal if the Contractor becomes aware of any errors, omissions, or inconsistencies in the information provided by the Principal or in the preparation or provision of Study or information.
- 4.13. *Certain Negative Covenants.* In performing the Study, the Contractor undertakes not to procure goods or services of any kind from any person meeting any of the following criteria:
- (a) the Person who is a member of the Management Board or Supervisory Board of an Approved Sub-Contractor or procurator of an Approved Sub-Contractor, or is authorised to represent or act on behalf of an Approved Sub-Contractor with respect to any activity related to any subsidiary company of such Approved Sub-Contractor, and such Person has been accused of commitment of any of the following criminal offences pursuant to an order issued by a public prosecutor or was found to be guilty of commitment of any of the following criminal offences in accordance with a court judgment that has entered into legal force, is non-disputable and non-appealable:
 - (i) formation, organisation, leading or involvement in the criminal organisation or another criminal formation, or participation in the criminal acts of such organisation or formation;
 - (ii) accepting a bribe, giving of a bribe, misappropriation of a bribe, intermediation toward giving or taking of a bribe, acceptance of a prohibited benefit or commercial bribing;
 - (iii) fraud, misappropriation of funds or money laundering;
 - (iv) tax evasion or evasion of payments equivalent to tax;
 - (v) terrorism, financing of terrorism, instigation of acts of terrorism, terrorist threats or recruitment and training of a person with the aim of committing acts of terrorism;

- (vi) human trafficking;
- (vii) avoidance of tax and other similar payments;
- (b) the Person has, by decision of a competent authority or judgment of a court which has entered into legal force and is non-disputable and non-appealable, been found guilty of violation of labour law in any of the following manners:
 - (i) employment of one or more citizens or nationals of countries who are not citizens or nationals of a Member State of the European Union and are residing in the territory of a Member State of the European Union unlawfully;
 - (ii) employment of one or more persons without having entered into written employment agreement with such persons, or without having submitted an employee declaration with respect to such persons within a period of time stipulated in accordance with applicable laws and regulations applicable to persons that enter into salaried employment;
- (c) the Person who, by decision of a competent authority or in accordance with judgment of a competent court which has entered into legal force, is non-disputable and non-appealable, has been held guilty of violation of applicable rules of competition law manifested as a vertical agreement aimed at restricting the ability of one or more purchasers to determine the resale price, or a horizontal cartel agreement, with the exception of instances where the relevant authority, upon having established the fact of violation of applicable rules of competition law, has discharged the candidate or participant in a tender offer from imposition of a fine or has reduced the amount of fine as a part of co-operation leniency programme;
- (d) the Person who has insolvency proceedings initiated against it (except in the circumstances where a bailout or a similar set of measures are applied within the insolvency proceedings and are aimed at preventing the bankruptcy and restoring the debtor back to solvency, in which case the Contractor shall evaluate the possibility of participation by such Person in performing the Study), economic activity of the Person has been suspended or discontinued, bankruptcy proceedings have been initiated against the Person or the Person is subject to a liquidation;
- (e) the Person has unpaid tax indebtedness in the country where the procurement is organised or in the country where the Person is registered or permanently residing as a tax payer, including the indebtedness with respect to State social insurance contributions, in the total amount exceeding EUR 150 in each individual country; in such case, the Contractor can, within its sole discretion, prompt the Approved Sub-Contractor to pay or discharge all outstanding tax indebtedness within 10 (ten) Working Days and, upon such payment or discharge, allow the Person to continue performance of the Study;
- (f) the Person is an entity registered offshore;
- (g) International or national sanctions or substantial sanctions by the European Union or the North Atlantic Treaty Organization Member State affecting the interests of the financial and capital market has been imposed to the Person and such sanctions can affect the execution of the Contract; and
- (h) any of the above-mentioned criteria shall apply to all members of a group of persons if the Person is a group of persons.

4.14. *Visibility Requirements.* At all times during performance of the Study, the Contractor undertakes to comply with each of the following requirements:

- (a) any report, brochure, document or information related to the Study conducted by the Contractor hereunder or any other Person, or which the Contractor makes publicly available shall include each of the following:
 - (i) a funding statement which indicates that the Study is financed from CEF funds substantially in the following form: “Co-financed by the Connecting Europe Facility of the European Union”;
 - (ii) 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
 - (iii) the flag of the Council of Europe and the European Union.

- (b) the requirements set forth in Clauses 4.14(a)(i) and 4.14(a)(iii) of this Agreement can be complied with by means of utilizing the following logo:



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

in the event the Contractor decides to utilize the above logo, the Contractor 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

- (c) in order to comply with the latest applicable visibility requirements established by the European Union, the Contractor 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>.

4.15. *Reporting.* The Contractor shall, in a format and at intervals to be agreed with the Principal:

- (a) provide the Principal with regular reports and status updates on the progress of the Works.
- (b) report on any changes to the Annexes of this Agreement, including but not limited to Study Schedule and Estimated Costs, which the Contractor considers may be needed in order to fulfil the objectives set out in the Agreement; and
- (c) use reasonable endeavours to provide any other information and status updates as may be reasonably requested by the Principal at any time.

In order to avoid any doubt, any change to the above-mentioned documentation can be made only pursuant to this Agreement, if agreed by both Parties, and, if the proposed changes are compliant with the Public Procurement Law of the Republic of Latvia.

Section V. Representations and Warranties

5.1 *Certain Representations and Warranties by Parties.* Each Party represents and warrants to the other Party, as of the Effective Date, as follows:

- (a) it has entered into this Agreement with the aim of attaining all of the objectives and performing in all material respects all of the obligations and commitments herein set forth;
- (b) it has entered into this Agreement without having any intention or goal whatsoever to violate the Applicable Law, its own Articles of Association, other constitutional documents, laws or agreements of any kind to which it is a party;
- (c) it is not bankrupt and is not the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, it is not in an arrangement with creditors, where its business activities are suspended, or it is in any analogous situation arising from a similar procedure under the laws of the country where it is registered and submits its tax accounts; and
- (d) it has entered into this Agreement of its own volition and in good faith.

5.2 *Certain Representations and Warranties by Contractor.* The Contractor represents and warrants to the Principal, as of the Effective Date, as follows:

- (a) it has all requisite qualification, skills and competence to perform the Study on the terms and conditions of this Agreement which are no less favourable than the terms and conditions of service identified by the Contractor in any document submitted by the Contractor to the Principal as part of the Procurement Procedure and on the terms of the Contractor's Proposal;
- (b) it holds all requisite licenses, permits, approvals and consents necessary to enable performance by the Contractor of the Study according to the specifications contained in this Agreement and *Annex B: Technical Specification*;
- (c) it has all requisite ability to ensure the highest quality of the Study;
- (d) it will assign competent and duly qualified personnel to carry out the Works set out in this Agreement according to the highest professional Standard and Good Industry Practice;

- (e) it is not deemed to be a person associated with the Principal for the purposes of Applicable Law;
- (f) it is compliant with all of the requirements of the Contractor's Declaration contained in *Annex I: Declaration of Contractor* and will continue to be compliant with all such requirements during the term of this Agreement;
- (g) the income mentioned in this Agreement will not derive through permanent establishment or fixed base maintained by the Contractor in the Republic of Latvia. The Contractor agrees to submit to the Principal four (4) copies of "*Residence Certificate–Application for Reduction of or Exemption from Latvian anticipatory taxes withheld at source from payments (management and consultancy fees, leasing fees and certain other types of income), paid to residents of the Spain*" (the "*Residence Certificate*") confirmed by Competent Authority of the Spain and the Latvian State Revenue Service. The Residence Certificate shall be submitted to the Principal prior the Principal will due to make a payment of the fee or other payments to the Contractor. Otherwise the Principal will withhold withholding tax at the rate of 20% from the Fee and payments made to the Contractor. The Principal is entitled to make any deductions from the payments due to the Contractor if the Contractor doesn't comply with this provision; and
- (h) immediately arrange for engagement of supplemental personnel when necessary at the cost of the Contractor. For the avoidance of any doubt, the engagement of supplemental personnel shall not require approval by the Principal, provided that this personnel complies with the Applicable Law, including the Public Procurement Law of the Republic of Latvia, and this Agreement.

Section VI. Fee and Payment

- 6.1 *Fee.* In consideration of provision of the Study, the Principal undertakes to pay the Contractor a Fee in the total amount set forth in accordance with *Annex D: Fee and Payment Schedule* (the "*Fee*") which shall be split into separate instalments and be payable by the Principal to the Contractor according to the schedule set forth in *Annex D: Fee and Payment Schedule*. It is acknowledged and agreed by the Parties that the Fee shall include all Costs and expenses incurred by the Contractor and Approved Sub-Contractors toward performing the Study. The Fee specified in accordance with this Clause 6.1 excludes value added tax that will be charged at the rate applicable in accordance with Applicable Law at the time of invoicing.
- 6.2 *Invoicing.* According to *Annex D: Fee and Payment Schedule* and following each Completion Date and/or Final Acceptance Date, provided that the Principal has accepted/approved the particular Deliverable of the Study which the invoice related to, the Contractor shall deliver to the Principal an invoice specifying the amount of the Fee payable and the period of time with respect to which the Fee is payable. In the event the Principal objects to payment of any amount claimed by the Contractor in the invoice, notice in the form chosen by the Client to this effect shall be given by the Principal to the Contractor not later than seven (7) days before the due date for payment under this Clause 6.2. This notice of objection shall state the amount to be withheld, the grounds for withholding the payment and the basis on which that amount is calculated. Unless such notice of objection is made by the Principal, the amount to be paid is that stated in the invoice which shall become due and payable in accordance with this Agreement. For the avoidance of any doubt, the Principal shall not be required to pay any amount under this Agreement with respect to any part of the Study that has not been accepted by the Principal in accordance with Clauses 7.4, 7.5, 7.6 and 7.7 of this Agreement.
- 6.3 *Payment.* Subject to the provisions of Clause 6.2, the Principal reserves the rights to make the payments to the Contractor with set-off, retention, counterclaim, abatement or other deduction of any kind that arises from this Agreement and from the obligations of the Contractor provided herein (i.e. in cases of accrued contractual penalty amounts, in case if the Principal haven't received residence certificate as stipulated in this Agreement, etc.). If the Principal uses the right to make the payments to the Contractor with set-off, retention, counterclaim, abatement or other deduction of any kind, then the Principal so notifies to the Contractor no later than on the date of the respective payment stating the amount, the grounds and the basis on the Principal uses its right to set-off, retention, counterclaim, abatement or other deduction or other right. Invoices shall be paid within thirty (30) days after the date of issue of the invoice. For the avoidance of any doubt, the Principal shall not be required to pay any amount with respect to any invoice in the absence of a Provisional Completion Note duly signed by the Principal or, with respect to the final payment of the Fee to be effected under this Agreement, the Final Acceptance Note duly signed by the both Parties, taking into account that the Study shall be accepted by the Principal in accordance with Clauses 7.4, 7.5, 7.6 and 7.7 of this Agreement.
- 6.4 *Costs and Commissions.* Each Party shall bear its own costs, fees, commissions and expenses incurred in connection with the transfer of any funds under this Agreement to the other Party.

6.5 *Compliance with Tax Obligations in Spain.* It is acknowledged and agreed by the Parties that the Fee shall include all taxes and duties payable by the Contractor in the consequence of provision of the Study, except value added tax (the "VAT"). The Contractor shall, at the sole cost and expense of the Contractor, comply with the obligation to pay all taxes and duties relevant to the provision of the Study in Spain and in accordance with Applicable Law of Spain. In addition, the Contractor shall assume all risks associated with the payment or obligation to pay such taxes and duties, if any. The Contractor assumes all risks associated with the possible increase in the amount of the Fee arising as a result of the obligation of having to pay any such taxes or duties.

6.6 *Invoice.* The Contractor's invoices shall contain the following Contractor's details and details about the Agreement:

Contractor	ARDANUY INGENIERÍA, S.A.
Registration No	M-83764
VAT payer's No or indication that the Contractor is not a VAT payer	A80480759
The Principal's VAT No	LV40103845025
Legal address, city, Zip code, country	Avenida Europa, 34 Edificio B, 28023 Madrid, Spain
Legal name of Bank	[Confidential]
Bank SWIFT Code	[Confidential]
Bank Account No IBAN	[Confidential]
Subject:	For provided services according to the Study Agreement for Rail Baltica Railway No 8/2018-73 (CEF Contract No INEA/CEF/TRAN/M2016/1360716 Activity No 4, Contract Manager: [Confidential])

The Contractor shall send the invoice to the Principal electronically to the following e-mail address: invoices@railbaltica.org. The Principal shall review the invoice to verify whether it contains all necessary requisites.

Section VII. Commencement of Study, remedying of Defects and acceptance

7.1 *Study Commencement.* The Contractor shall not commence provision of the Study until Study Start Date, as identified in accordance with *Annex C: Schedule of the Study* and shall ensure that the Deliverables are furnished to the Principal on or before each relevant Study Milestone. The Contractor shall perform the Study timely and with due diligence having due regard to any applicable Study Milestones and any other key dates for performance of the Study set out in the Agreement and the applicable Annexes, as may be amended from time to time with the consent of the Principal or in accordance with this Agreement and Public Procurement Law of the Republic of Latvia.

7.2 *Impediments and Delays.* If the Study, or any part thereof, is impeded or delayed by the Principal or any third party engaged by the Principal so as to increase the duration of the Study:

- a) the Contractor shall inform the Principal of the circumstances and probable effects of such impediment or delay upon the agreed Schedule of Study specified in accordance with *Annex C: Schedule of the Study*; and
- b) the duration of the Study shall be increased, and any Study Milestones affected by the impediment or delay shall be extended accordingly.

7.3 *Defects and Defects Date.* Until the Defects Date specified in accordance with *Annex C: Schedule of the Study* the Principal shall notify the Contractor of each Defect as soon as Defect is identified by the Principal and the Contractor shall have an obligation to notify the Principal of each Defect as soon as Defect is identified by the Contractor. Upon discovering a Defect, or upon receipt by the Contractor of a notification of Defect from the Principal, the Contractor shall have fourteen (14) days to remedy the Defect (the "Cure Period"). In the event of inability or failure by the Contractor to remedy the Defect within the Cure Period, the Principal shall be entitled, at the sole and exclusive discretion of the Principal, to do any of the following:

- (a) allow the Contractor an additional time period for remedying the Defect, such time period to be determined in the sole discretion of the Principal;
- (b) remedy the Defect at own cost of the Principal (including by means of relying on the services of a third Person) and demand reimbursement by the Contractor of Costs incurred by the Principal as a result of having to pay other Persons toward carrying out any work or action;
- (c) terminate the Agreement according to *Section IX. Termination and suspension*; or

- (d) remedy the Defect in accordance with Clause 7.3.

For the avoidance of any doubt, the application of the Cure Period under this Clause 7.3 shall be without prejudice to and shall not relieve the Contractor from the obligation to pay any contractual penalty in accordance with the provisions of Clause 10.2 or to pay Damages in accordance with the provisions of Clause 10.3 of this Agreement.

- 7.4 *Completion of Study and Completion Note.* Meeting of a Study Milestone or supply of a Deliverable occurs whenever the Contractor has completed all of the Works which the Contractor has undertaken to perform according to the *Annex B: Technical Specification* and Schedule of Study by the relevant Study Milestone. On meeting a Study Milestone and/or producing a Deliverable (including all Documentation and information forming part of the Deliverable) constituting all or an identifiable part of the Study, the Contractor shall issue to the Principal a Provisional Completion Note substantially in the form of *Annex F: Form of Provisional Completion Note* (hereinafter, the "Provisional Completion Note"). The Provisional Completion Note shall include the Deliverable and adequate supporting Documentation and information relevant to the Study Milestone attained and/or Deliverable completed.
- 7.5 *Objection Notice and Provisional Acceptance Note.* In the event the Principal objects to the issuance of a Provisional Acceptance Note, it shall give notice to the Contractor setting out in reasonable detail any Defect or reason for the objection (the "Objection Notice") within reasonable time following receipt of the Provisional Completion Note. In the event no reasons for objection to the Provisional Completion Note exist, the Principal shall issue, within reasonable time following receipt of the Provisional Completion Note, a provisional acceptance note in the form of *Annex G: Form of Provisional Acceptance Note* (the "Provisional Acceptance Note"). Subject to Clause 2.5 of this Agreement, the date of the Provisional Acceptance Note shall constitute "Completion Date" with respect to the relevant Study Milestone and/or Deliverable. The Principal shall not unreasonably withhold or delay issuance of a Provisional Acceptance Note. The Provisional Acceptance Note may have annexed to it a list of any outstanding Defects or deficiencies to be corrected by the Contractor.
- 7.6 *Completion of Study Following Receipt of Objection Notice.* In the event of receipt by the Contractor of an Objection Notice in accordance with Clause 7.5, the Contractor shall:
- (a) take due account of all Defects, irrespective of their extent or nature, and other matters raised in the Objection Notice;
 - (b) as soon as reasonably practicable but no later as mentioned in the Objection Notice and in the Agreement, correct such Defects and deficiencies, irrespective of their extent or nature, and complete the Works indicated in the Objection Notice so as to comply in all material respects with the requirements of this Agreement and Applicable Law; and
 - (c) issue to the Principal a second Provisional Completion Note substantially in the form of *Annex F: Form of Provisional Completion Note*.

The second Provisional Completion Note issued in accordance with Clause 7.6(c) shall include the Deliverable and adequate supporting Documentation and information relevant to the Study Milestone attained and/or Deliverable completed. In the event no reasons for objection to the second Provisional Completion Note exist, the Principal shall, within reasonable time following receipt of the second Provisional Completion Note, issue a Provisional Acceptance Note in the form of *Annex G: Form of Provisional Acceptance Note* and, subject to the provisions of Clauses 2.5 and 9.1(b) of this Agreement, the date of the Provisional Acceptance Note shall constitute "Completion Date" with respect to the relevant Study Milestone and/or Deliverable. In the event the Principal objects to the issuance of a Provisional Completion Note in accordance with this Clause 7.6, it shall give the second Objection Notice to the Contractor in the previously mentioned order. For the avoidance of any doubt, the giving by the Principal of any Objection Notice under Clause 7.5 or second Objection Notice under this Clause 7.6 shall be without prejudice to and shall not relieve the Contractor from the obligation to pay any contractual penalty in accordance with the provisions of Clause 10.2 or to pay Damages in accordance with the provisions Clause 10.3 of this Agreement.

- 7.7 *Final Acceptance.* Final acceptance of the Study shall occur upon remedying by the Contractor of all Defects notified by the Principal to the Contractor in accordance with Clause 7.3, irrespective of the extent or nature of such Defects. Final acceptance shall be evidenced by means of the Principal issuing and both Parties attaching their signatures to the Final Acceptance Note substantially in the form of *Annex H: Form of Final Acceptance Note* (the "Final Acceptance Note"). In the event the Principal objects to the issuance of the Final Acceptance Note, no later than on the Defects Date, the Principal shall give notice to the Contractor setting out in reasonable detail all Defects which remain un-remedied, or reason(s) for refusal to issue the Final Acceptance Note. The date of the Final Acceptance Note shall constitute the "Final Acceptance Date" with

respect to the Study. The Principal shall not unreasonably withhold or delay issuance of a Final Acceptance Note.

Section VIII. Intellectual Property Rights

- 8.1 *Proprietary Rights.* All Documentation forming part of the Deliverables developed under this Agreement is and shall become the property of the Principal at the moment of creation regardless of whether the Study or Deliverable is produced or finally accepted. It is acknowledged and agreed by the Parties that the Principal shall be permitted to reproduce the drawings and schemes and distribute the prints in connection with the use or disposition of the Documentation without any approval of the Contractor and without incurring obligation to pay any royalties or additional compensation whatsoever to the Contractor.
- 8.2 *Intellectual Property in Documentation.* The Contractor represents and warrants that it owns all Intellectual Property required for the purposes of completing its obligations under this Agreement and in all Documentation deliverable by or on behalf of the Contractor under this Agreement and that, to the extent any Intellectual Property in any Documentation is not owned by the Contractor, it has obtained all requisite consents from owner(s) of all Intellectual Property in the Documentation to fulfil all of the obligations undertaken by the Contractor under this Agreement and has fully discharged all obligations with respect to payment of any royalties or fees.
- 8.3 *Transfer of Ownership to Principal.* The Principal shall acquire legal title to and ownership in the Intellectual Property in all Documentation deliverable to the Principal under this Agreement as of the moment of delivery by the Contractor to the Principal of the Provisional Completion Note, together with the Deliverable and Documentation and information forming part of the Deliverable, in accordance with Clause 7.4 of this Agreement; provided, however, that the Principal has paid the Fee or other consideration payable under the terms of this Agreement with respect to the relevant part of the Study or Deliverable. For the avoidance of any doubt, such title and ownership shall confer upon the Principal, without limitation, each of the following:
- (a) the right to reproduce the Documentation and information, or any part thereof, and distribute copies of the Documentation and information or any part thereof;
 - (b) the right to modify, amend and supplement the Documentation and information, or any part thereof;
 - (c) the right to licence the Documentation and information, or any part thereof, for use by others; and
 - (d) the right to transfer ownership in the Documentation and information, or any part thereof, to others.
- 8.4 *Grant of Limited License to Contractor.* Upon acceptance by the Principal of any Deliverable and Documentation forming part of any Deliverable in accordance with Clause 7.4, 7.5, 7.6 and 7.7 the Principal shall be deemed to have granted the Contractor an irrevocable and exclusive licence to reproduce, modify and distribute copies of any Documentation forming part of any Deliverable for the purposes of the Study and the Project, subject to the following restrictions:
- (a) the license shall apply during the term of this Agreement only;
 - (b) the permitted use shall only cover the right to reproduce, modify and distribute the Documentation and information, or any part thereof, for the purposes of performing, implementing or modifying the Study; and
 - (c) the Documentation and information, or any part thereof, shall not, without the prior consent by the Principal, be distributed or communicated to any third party for purposes other than those permitted in accordance with this Clause 8.4.

The license in accordance with this Clause 8.4 shall be deemed to have been granted to the Contractor as of the Completion Date.

- 8.5 *No Additional Royalty.* It is acknowledged and agreed by the Parties that consideration for the transfer of ownership in the Intellectual Property shall be forming part of the Fee and no additional royalty, fee or other consideration of any kind shall be payable by the Principal to the Contractor or to any third party in consideration of the transfer of ownership in the Intellectual Property in any Documentation.
- 8.6 *No Infringement.* The Contractor represents and warrants to the Principal that no Documentation and information deliverable to the Principal under the terms of this Agreement will infringe any existing Intellectual Property of any third party. In the event any of the representations or warranties contained in this *Section VIII. Intellectual Property Rights* prove to be untrue or inaccurate, the Contractor undertakes, at its own cost and expense, to defend and settle any claim raised by any third party alleging infringement of Intellectual Property in the Documentation and information. The foregoing undertaking by the Contractor shall apply subject to the following conditions:

- (a) the Principal shall notify the Contractor, without undue delay, of any third-party claim alleging infringement of any Intellectual Property in any Documentation;
 - (b) the Principal refrains from admitting liability under any third-party claim or acting on the account of such claim without prior approval by the Contractor; and
 - (c) the exclusive control over any legal proceeding or settlement related any third-party claim shall be exercised by the Contractor; provided, however, that the Principal shall render the Contractor all reasonable assistance toward such proceeding or settlement, at the cost and expense of the Contractor.
- 8.7 *Infringement Proceedings.* In the event the Principal is a party to legal proceedings involving allegations of infringement of any Intellectual Property in the Documentation of any third party, the Contractor shall keep the Principal fully informed of all aspects relevant to the legal proceedings and the Principal shall have the right, at its own cost, to be represented in the legal proceedings by separate counsel. In the event the Contractor fails to act against claims alleging infringement of any Intellectual Property in the Documentation and information of any third party within reasonable time but, in any event, within twenty (20) days of having been notified of such claims, the Principal shall have the right to assume legal defence against claims alleging infringement of Intellectual Property and shall be entitled to reimbursement by the Contractor of reasonable costs and expenses incurred toward such defence.
- 8.8 *Continued Use.* In the event a court of competent jurisdiction resolves in a binding judgment that the Documentation and information, or any part thereof, infringe Intellectual Property of any third party, the Contractor shall, at its own cost and expense, procure for the Principal the right of continued use of the Documentation and information, or part thereof infringing Intellectual Property of a third party.
- 8.9 *License in Intellectual Property of the Contractor.* The Contractor hereby grants the Principal an irrevocable and non-exclusive license to use, reproduce, modify and/or enhance any Intellectual Property of the Contractor, provided and to the extent Intellectual Property of the Contractor is used by the Principal for the purposes of the Railway and/or the Project. It is agreed and acknowledged by the Parties that the license fee for the grant of license in accordance with this Clause 8.9 forms part of the Fee and such license shall continue to be valid irrespective of expiration of this Agreement following completion of the Study or termination of this Agreement for any reason.
- 8.10 *Obligation to Procure Intellectual Property Rights.* Where the Contractor is not the legal owner of any relevant Intellectual Property of the Contractor, the Contractor shall use reasonable endeavours to procure for the Principal the rights specified in accordance with Clause 8.9.
- 8.11 *Obligation to Indemnify with Respect to Uses Other Than for the Purpose.* The Principal shall defend and indemnify the Contractor from and against any and all Damages and Costs arising from the use by the Principal of any Intellectual Property of the Contractor other than for the purposes of the Railway and/or the Project.
- 8.12 *Indemnification by the Contractor.* The Contractor shall defend and indemnify the Principal from and against any and all Damages arising from the use by the Principal of any Intellectual Property of the Contractor, to the extent use by the Principal is within the scope of the license granted to the Principal in accordance with Clause 8.9.
- 8.13 *Certain Rights of Contractor.* The Contractor shall have the right to include photographic or artistic representations of the design of the Project among the Contractor's promotional and professional materials after obtaining prior written approval from the Principal. The Contractor shall be given reasonable access to the completed Project to make such representations. However, the Contractor's materials shall not include the Principal's confidential or proprietary information regardless of whether or not the Principal has previously advised the Contractor in writing of the specific information considered by the Principal to be confidential or proprietary. These materials also shall not contain any information or data that shall be used in accordance to any conditions and requirements set forth by the Principal or other entity; in this case the Contractor shall comply with such conditions and requirements.

Section IX. Termination and suspension

- 9.1 *Termination for Material Breach or Bankruptcy.* Subject to the provisions of Clause 9.2, either Party shall be entitled to terminate this Agreement upon giving a written notice of termination to the other Party in the event of material breach by the other Party of any of its obligations under this Agreement. The written notice of termination shall contain an itemized description of the breach. For the purposes of this Clause 9.1 an event of material breach shall include any of the following:

- (a) commitment by a Party of any persistent or material breach of this Agreement (which shall include failure to pay an amount of at least EUR 5,000 due to the other Party or perform any part of the Study valued at least EUR 5,000;
- (b) failure by the Contractor to duly address any of the matters raised in the second Objection Notice given by the Principal in accordance with Clause 7.6;
- (c) failure by any Deliverable to conform to any of the material requirements to such Deliverable contained in *Annex C: Schedule of the Study*, provided that such failure is not capable of being remedied during the Cure Period;
- (d) failure by the Principal to make any payment to the Contractor in accordance with this Agreement within at least fourteen (14) Working Days from the date of payment falling due;
- (e) any of the representations or warranties given by either Party under Clause 5.1 or any of the representations or warranties given by the Contractor under Clause 5.2 proving to be untrue; or
- (f) breach by the Contractor of the undertaking contained in Clause 8.10.

9.2 *Corrective Period.* In the event of breach by either Party of its obligations under this Agreement, the non-breaching Party shall allow the breaching Party fourteen (14) days for corrective action or submission of a corrective action plan (the "Corrective Period"). The Corrective Period shall be counted from the date of receipt by the breaching Party of a written notice of breach. Should no satisfactory corrective action be taken, or acceptable corrective action plan provided by the breaching Party, the non-breaching Party shall have the right to terminate the Agreement. It is acknowledged and agreed by the Parties that the provisions of this Clause 9.2 shall not apply with respect to any of the events enumerated in accordance with Clause 9.4. In addition and for the avoidance of any doubt, the application of the Corrective Period under this Clause 9.2 shall be without prejudice to and shall not relieve either Party from the obligation to pay any contractual penalty in accordance with the provisions of Clause 10.2 or to pay Damages incurred by the other Party in accordance with the provisions of Clause 10.3.

9.3 *Right to Terminate Immediately.*

9.3.1. Notwithstanding anything to the contrary contained in this Agreement, a Party may terminate this Agreement immediately upon giving the other Party a written notice of termination explaining, in reasonable detail, the reason for termination upon occurrence of any of the following:

- (a) breach by the other Party of Clause 16.2;
- (b) an event of Force Majeure has been continuing during more than sixty (60) days;
- (c) the other Party had passed a resolution for winding-up (other than in order to amalgamate or reconstruct);
- (d) breach by the Contractor any of the confidentiality undertakings contained in *Section XII. Confidentiality*;
- (e) the other Party is unable to pay its debts and has presented a petition for voluntary bankruptcy;
- (f) the other Party had a bankruptcy order issued against it;
- (g) liquidation, insolvency or legal protection proceedings have been initiated with respect to the other Party or the other Party is declared insolvent;
- (h) the occurrence of any event analogous to the events enumerated under Clauses 9.3(e)-(g) under the law of any jurisdiction to which the other Party's assets and undertaking are subject.

9.3.2. *Principal's Right to Terminate Immediately.* The Principal may terminate this Agreement immediately upon giving the other Party a written notice of termination explaining, in reasonable detail, the reason for termination, if:

- (a) CEF Co-financing for further financing of the Study are not available to the Principal fully or partly;

In such a case, the Principal shall pay the Contractor the fees in respect of the Study provided under this Agreement up to the date of the notification of the termination of this Agreement and the Principal is not obliged to pay contractual or any other penalty or Damages to the Contractor.

- (b) it is not possible to execute the Agreement due to the application of international or national sanctions, or European Union or North Atlantic Treaty Organization applied sanctions significantly affecting interests of financial or capital market.
- 9.3.3. *Termination according to Public Procurement Law.* The Agreement can be immediately terminated upon giving the other Party a written notice of termination explaining, in reasonable detail, the reason for termination upon occurrence of any of the provisions mentioned in the Section 64 of the Public Procurement Law. In such a case, the Principal shall pay the Contractor the fees in respect of the Works and Study provided under this Agreement up to the date of the notification of the termination of this Agreement and the Principal is not obliged to pay contractual or any other penalty or Damages to the Contractor.
- 9.4 *Right to Advance to Completion.* In the event the Contractor fails to fulfil any of its obligations, or fails to cure any breach in accordance with Clause 9.2, and the Agreement is terminated by the Principal, the Principal may advance the Study to completion by employing the services of other professional service supplier(s) or by other means available to the Principal. The Contractor shall be liable to the Principal for any and all additional costs incurred due to failure by the Contractor to perform. The rights and remedies available to the Principal set forth in accordance with this Clause 9.4 shall be in addition to any and all other rights and remedies available under Applicable Law.
- 9.5 *Consequences of Termination.* Upon expiration or termination of this Agreement, the obligations of the Parties set forth in this Agreement shall cease, except with respect to the following:
- (a) any obligations arising as a result of any antecedent breach of this Agreement or any accrued rights; and
- (b) the provisions stipulated in accordance with Clauses 4.5, 4.6, 7.3, 8.5, 8.6, 8.7, 8.8, 8.9, 8.11, 8.12, 9.6, 10.1, 10.2, 10.3, 16.2, 16.6, 16.7, 16.8, and *Section XII. Confidentiality, Section XIII. Right to Audit, Section XIV. On-the-spot-visits and Section XV. Governing Law and Resolution of Disputes* which shall survive the termination or expiry of this Agreement and continue in full force and effect along with any other Clauses of or Annexes hereof which are necessary to give effect to the Clauses specifically identified in this 9.5(b).
- 9.6 *Partial Acceptance.* Notwithstanding anything in this Agreement to the contrary including, without limitation, the provisions of Clauses 7.4, 7.5, 7.6 and 7.7 and in the event of termination of this Agreement, the Principal shall have the right, in the sole discretion of the Principal, to partially accept any Works, part of Works or part of the Study delivered to the Principal under this Agreement (the "Right of Partial Acceptance"). The Principal shall notify the Contractor of its intention to exercise the Right of Partial Acceptance in the termination notice given in accordance with Clause 9.1 or Clause 9.3 of this Agreement, specifying, in reasonable detail, the Works, part of Works or part of the Study which the Principal would like to partially accept. In the event of receipt of such notice, the Contractor shall reasonably cooperate with the Principal in order to ascertain transfer to the Principal of ownership in the result(s) of such Works, part of Works or part of the Study and determination of the amount of consideration payable by the Principal.
- 9.7 *Principal's Obligation to Pay.* Subject to the provisions of Clause 9.6 and except in the event of termination by the Principal occurring as a result of violation by the Contractor of Clause 16.2, or termination by the Principal according to Clause 9.3.2 or 9.3.3 in the event this Agreement is terminated for any reason prior to completion of the Study, the Principal shall have an obligation to pay the Contractor the following:
- (a) the Costs incurred by the Contractor up to the date of termination; and
- (b) except where termination is due to negligence of the Contractor, due to the application of international sanctions, breach by the Contractor, insolvency of the Contractor or a Force Majeure Event under *Section XI. Force Majeure*:
- (i) an amount equal to the costs reasonably and properly incurred by the Contractor as a result of or in connection with such termination; and
- (ii) such additional amount as is required to put the Contractor in the same after-tax position (taking into account the amount of any relief, allowance, deduction, set-off or credit relating to tax available to the Contractor in respect of the payment received) as it would have been in if the payment had not been a taxable receipt in the hands of the Contractor.
- 9.8 *No Obligation to Pay Costs Incurred Prior to Acceptance.* Notwithstanding anything set forth in this Agreement to the contrary including, without limitation, under Clause 9.7, the Principal shall have no obligation to pay any of the Costs incurred by the Contractor with respect to any Works or the Study (or part of any Works or the Study) not deemed as having been accepted by the Principal in accordance with Clauses 7.4, 7.6 and 7.7.

- 9.9 *No Prejudice to Other Rights.* The right to terminate this Agreement shall be without prejudice to any other right of either Party which has accrued prior to or as a result of such termination or to any remedy available to either Party under the terms of this Agreement or in accordance with Applicable Law.

Section X. Liability

- 10.1 *Liability of the Parties.* The Contractor shall be liable to compensate Damages incurred by the Principal arising out of or in connection with this Agreement and pay contractual penalty set forth in accordance with Clause 10.2 if a breach of any of the obligations of the Contractor under this Agreement is established against the Contractor. The Principal shall be liable to pay the contractual penalty set forth in accordance with Clause 10.2 if a breach of payment obligations of the Principal under this Agreement is established against the Principal.
- 10.2 *Contractual Penalty.* In the event of failure by the Contractor to meet any Study Milestone and/or supply any Deliverable, the Contractor shall be liable to pay to the Principal a penalty of zero point one percent (0.1%) of the amount of total the Fee payable under this Agreement with respect to the relevant Study period for each day of delay starting from the first delayed day with meeting any of the Study Milestones and/or supplying any of the Deliverables set forth in accordance with *Annex C: Schedule of the Study*; provided, however, that the total amount of penalty payable by the Contractor under this Clause 10.2 for the relevant Works, as specified according to *Annex C: Schedule of the Study* shall not exceed ten percent (10%) of the total amount of the Fee payable in consideration of such Works. In the event of failure by the Principal to pay any amount in accordance with Clause 6.1, the Principal shall be liable to pay the Contractor a penalty of zero point one percent (0.01%) of the amount of the amount invoiced for each day of delay with meeting the payment obligation; provided, however, that the total amount of penalty payable by the Principal under this Clause 10.2 shall not exceed ten percent (10%) of the total amount remaining unpaid under the relevant invoice.
- 10.3 *Compensation for Damages.* Notwithstanding of and without prejudice to any contractual penalty payable in accordance with Clause 10.2 and subject to the provisions of Clause 10.5, in the event it is established that either Party is liable to the other Party with respect to any breach of its respective obligations under this Agreement, the liable Party shall compensate the other Party for any Damages incurred as a result of such breach, subject to the following terms:
- (a) the amount of compensation shall be limited to the amount of reasonably foreseeable Damages suffered as a result of the breach(es), but not otherwise; and
 - (b) if either Party is considered to be liable jointly with third parties to the other, the proportion of compensation payable by the liable Party shall be limited to that proportion of liability which is attributable to the breach by the liable Party.
- 10.4 *Attribution of Damages.* Any Damages suffered by either Party shall, for the purposes of Clause 10.3, be reduced to the extent that the Damages are caused by or contributed to by the other Party's own negligence or breach of its obligations under this Agreement.
- 10.5 *Limitation of Liability.* Notwithstanding anything to the contrary set forth in this Agreement, in no circumstances shall the Contractor or Principal be liable to one another for any loss of production, loss of profit, loss of revenue, loss of contract, liability incurred under other agreements (with the exception of costs paid by the Principal to contractors appointed by the Principal in relation to the Study or the Project) or any indirect or consequential loss arising out of or in connection with this Agreement. The Contractor's total liability for the Works carried out under this Agreement shall in no circumstances exceed EUR 600 000,00 (six hundred thousand euros).

Section XI. Force Majeure

- 11.1 *Effects of Force Majeure.* Subject to the requirements set forth in accordance with Clauses 11.2 and 11.3, 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 a Force Majeure Event.
- 11.2 *Action on Becoming Aware of Force Majeure.* Each Party shall at all times, following the occurrence of a Force Majeure Event:
- (a) take reasonable steps to prevent and mitigate the consequences of such an event upon the performance of its obligations under this Agreement, 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

- (b) 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 11.2(a).
- 11.3 *Notification Requirements.* 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 ten (10) 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 11.2(a) 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.
- 11.4 *Notification of Resumed Performance.* 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).
- 11.5 *Mitigation of Effects of Force Majeure.* As soon as practicable after the notification specified pursuant to Clause 11.3, the Parties shall use reasonable endeavours to agree appropriate terms or modifications to the Study to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Agreement.

Section XII. Confidentiality

- 12.1 *Confidential Information.* "Confidential Information" means, in relation to the Principal, all information of a confidential nature relating to the Principal and its affiliates which is supplied by the Principal (whether before or after the date of this Agreement) to the Contractor, 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, but excludes information which:
- (a) the Principal confirms in writing is not required to be treated as confidential; or
 - (b) the Contractor can show that the Confidential Information was in its 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 Principal and was not previously acquired by the Contractor from the Principal under an obligation of confidence; or
 - (c) was developed by or for the Contractor at any time independently of this Agreement.
- 12.2 *Undertakings with Respect to Confidential Information.* Subject to Clauses 12.1 and 12.3, the Contractor shall:
- (a) at all times keep confidential all Confidential Information received by it and shall not disclose such Confidential Information to any other Person; and
 - (b) 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 Party to which such Confidential Information relates.
- 12.3 *Permitted Disclosure.* Notwithstanding anything to the contrary set forth in accordance with Clauses 12.1, 12.2 and 12.3, the Contractor shall, without the prior written consent of the Principal, be entitled to disclose Confidential Information:
- (a) that is reasonably required by the Contractor 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 Contractor to perform its obligations under this Agreement;
 - (b) to enable a determination to be made pursuant to *Section XIV. On-the-spot-visits*;
 - (c) 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;
 - (d) to the extent required by Applicable Law 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
 - (e) 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.

- 12.4 *Obligation of Confidentiality Pertinent to Recipients of Confidential Information.* Whenever disclosure is permitted to be made pursuant to Clauses 12.3(a) or(c), the Contractor shall require that the recipient of Confidential Information be subject to the same obligation of confidentiality as that contained in this Agreement.
- 12.5 *Certain Obligations on Termination of Agreement.* If this Agreement is terminated for whatsoever reason, the Contractor shall:
- (a) return to the Principal all of the Confidential Information then within the possession or control of the Contractor; or
 - (b) destroy such Confidential Information using a secure and confidential method of destruction.
- 12.6 *No Press Release by Contractor.* Save as required by Applicable Law, the Contractor shall not issue any press release in relation to the matters contemplated under this Agreement without the prior written consent of the Principal (such consent not to be unreasonably withheld or delayed) as to both the content and the timing of the issue of the press release.
- 12.7 *Right to Publish.* For the avoidance of any doubt, the Principal shall have the right to publish any of the documents, information or data provided by the Contractor to the Principal during provision of the Study.
- 12.8 *Remedies.* The Parties acknowledge and agree that a breach of the provisions of this *Section XII. Confidentiality* may cause the owner of Confidential Information to suffer irreparable Damages that could not be adequately remedied by an action at law. Accordingly, the Contractor agrees that the owner of Confidential Information that is disclosed in breach of Clauses 12.2, 12.4 or 12.6 may be 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.

Section XIII. Right to Audit

- 13.1 *Right to Audit.* Notwithstanding anything to the contrary set forth in this Agreement including, the Principal itself, a reputable outside independent body or expert engaged and authorized by the Principal shall be entitled to inspect and/or audit the Contractor to ensure compliance with the terms of this Agreement, including inspecting and/or auditing:
- (a) the performance of any aspect of the Study; and/or
 - (b) any documentation, including all payrolls, accounts of the Contractor and/or other records used in or related to the performance of the Study.
- 13.2 *Obligation to Assist.* The Contractor shall provide all reasonable assistance to the Principal or the independent body authorized by the Principal in carrying out any inspection or audit pursuant to this *Section XIII. Right to Audit*. The Principal shall be responsible for its own costs, or the costs incurred by the outside independent body designated by the Principal, incurred toward carrying out such inspection or audit, unless, in the case of any such audit, that audit reveals that the Contractor is not compliant with the terms of this Agreement, in which case the Contractor shall reimburse the Principal for all of its additional reasonable costs incurred, provided such non-compliance is material.
- 13.3 *Survival of Termination.* The rights and obligations of the Principal set forth in accordance with this *Section XIII. Right to Audit* shall survive expiration or termination of this Agreement for any reason and shall continue to apply during eleven (11) years following expiration or termination of this Agreement for any reason whatsoever.

Section XIV. On-the-spot-visits

- 14.1 *Right to perform On-the-spot visits.* By submitting a written notice five (5) Working Days in advance, but at the same time reserving the right of an unannounced on-the-spot visit without an advance notice, the Principal may carry out on-the-spot visits to the sites and premises where the activities implemented within the Agreement are or were carried out.
- 14.2 *Personnel involved.* On-the-spot visits may be carried out either directly by authorised staff or representatives of the Principal or by any other outside body or third party authorised to do so on behalf of the Principal. Information provided and collected in the framework of on-the-spot visits shall be treated on confidential basis. The Principal shall ensure that any authorised outside body or third party shall be bound by the same confidentiality obligations.
- 14.3 *Access to the information.* Contractor shall provide to the performer of the on-the-spot visit or any other authorised outside body or third party access to all the information and documents, including information and

documents in electronic format, which is requested by the authorised staff of the performer of the on-the-spot visit or any other authorised outside body or third party for the performance of an on-the-spot visit and which relates to the implementation of the Agreement, as well as shall allow the authorised staff of the performer of the on-the-spot visit or any other authorised outside body or third party the copying of the information and documents, with due respect to the confidentiality obligation.

- 14.4 *OLAF checks and inspections.* By virtue of Council Regulation (Euratom, EC) No 2185/961 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities and Regulation (EU) No 883/20132 of the European Parliament and the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by European Union law for the protection of the financial interests of the European Union against fraud and other irregularities. Where appropriate, OLAF findings may lead to criminal prosecution under national law.

Section XV. Governing Law and Resolution of Disputes

- 15.1 *Governing Law.* This Agreement shall be governed by and construed in accordance with law of the Republic of Latvia.
- 15.2 *Resolution by Amicable Means.* The Parties shall first attempt to settle any dispute, controversy or claim arising out of or relating to this Agreement through good faith debate, discussion, and negotiating prior to submitting them to mediation, arbitration, or other legal proceeding.
- 15.3 *Venue for Resolution of Disputes.* Should the Parties fail to agree by means of amicable negotiations within the time period of two (2) months 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. The Parties hereby represent and warrant that the English language is understandable for both Parties in accordance with Article 8(1)(a) of the Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) and repealing Council Regulation (EC) No 1348/2000.

Section XVI. Miscellaneous provisions

- 16.1 *Capacity.* Each Party warrants to the other Party that it has full power to enter into and perform this Agreement, and the person signing this Agreement on its behalf has been duly authorized and empowered to enter into such agreement. Each Party further acknowledges that it has read this Agreement, understands it and agrees to be bound by it.
- 16.2 *Conflict of Interest, Corruption and Fraud.* Notwithstanding any penalties that may be enforced against the Contractor under Applicable Law, or the laws of other jurisdiction(s), the Contractor shall be deemed to have committed a breach under this Agreement and the Principal shall be entitled to terminate this Agreement immediately and without any regard to the provisions of Clause 9.2, if it is shown that the Contractor is guilty of:
- (a) offering, giving, receiving or soliciting anything of value with a view to influencing the behaviour or action of anyone, whether a public official or otherwise, directly or indirectly in the selection process or in the conduct of the Agreement; or
 - (b) misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Principal, including the use of collusive practices intended to stifle or reduce the benefits of free and open competition.
- 16.3 *Notices.* Notices under the Agreement shall be in writing and will take effect from receipt by the Party to which the notice is addressed at the address of the Party set forth in the Preamble to this Agreement. Delivery can be by hand or facsimile message against a written confirmation of receipt or by registered letter.
- 16.4 *Damages Covered by Insurance.* To the extent Damages are covered by insurance, the Principal and the Contractor waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance current as of the date of this Agreement.
- 16.5 *Relationship of the Parties.* The relationship between the Contractor to the Principal under this Agreement is that of independent contractors. The Contractor (or the Contractor's Sub-Contractors) is not an employee of the Principal, is not carrying out the regular business of the Principal and is not subject to the same employment regulations as are applicable to employees of the Principal. Each of the Parties shall be solely and entirely responsible for their own acts and the acts of their employees. No benefits, special considerations, or

employer/employee-type provisions are provided by the Principal to the Contractor, the Contractor's employees, or the Contractor's consultants, or the employees of such consultants.

- 16.6 *Severability.* If any provision of this Agreement shall be held to be illegal, invalid, void or unenforceable under Applicable Laws, the legality, validity and enforceability of the remainder of this Agreement shall not be affected, and the legality, validity and enforceability of the whole of this Agreement shall not be affected.
- 16.7 *Successors and Assigns.* The Principal and the Contractor each bind themselves, their successors, legal representatives, and assigns to the other party to this Agreement and to the partners, successors, legal representatives and assigns of such other party in respect to all covenants of this Agreement. Neither Party shall assign or transfer its respective interest in the Agreement without written consent of the other Party.
- 16.8 *Amendments and Variations.* No amendment to or variation of this Agreement shall be effective unless made in writing and signed by duly authorized representatives of both Parties. The Agreement can be amended in compliance with the provisions of Section 61 of the Public Procurement Law of the Republic of Latvia.
- 16.9 *Entire Agreement.* This Agreement, and the Annexes hereto, constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes and extinguishes all and any prior drafts, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.
- 16.10 *Execution.* This Agreement may be executed in two counterparts to be held by each Party which counterparts, taken together, shall constitute one and the same instrument.

Signed by:

For and on behalf of the Principal:

For and on behalf of the Contractor:

Signature:

Signature:

Name, title: Ignas Degutis
Chairman of the Management
Board

Name, title: Jevgenijus Pičuginas,
Authorized person

Signature:

Name, title: Mart Nielsen
Management Board Member

Bank details: Luminor Bank AS
IBAN: LV73NDEA0000084270995
SWIFT: NDEALV2X

[Confidential]

Annex A: Definitions and common terms

The following capitalized terms shall be ascribed the following meaning for the purposes of the Agreement:

- (a) "Agreement", this Agreement, together with all Annexes thereto.
- (b) "Applicable Law" or "Law", any legislative act, regulation, decree, order, ordinance, statute, treaty, directive, judgment, or other legislative measure. For the avoidance of any doubt, these terms shall include any legislative act or directive relevant to public procurement.
- (c) "Approved Staff", any person or organization listed pursuant to *Annex E: List of approved Sub-Contractors and Staff* which is in a contractual relationship with the Contractor to provide a part of the Study.
- (d) "Approved Sub-Contractor", any person or organisation listed pursuant to *Annex E: List of approved Sub-Contractors and Staff*, which is in a contractual relationship with the Contractor to provide a part of the Study.
- (e) "Completion Date", as defined in accordance with Clause 7.4 and 7.6, as appropriate.
- (f) "Confidential Information", as defined in accordance with Clause 12.1 of the Agreement.
- (g) "Contractor", the company - partnership formed by ARDANUY INGENIERÍA, S.A. and INGENIERÍA Y ECONOMÍA DEL TRANSPORTE, S.M.E. M.P., S.A., as further specified in the Preamble of this Agreement, which is employed by the Principal as an independent professional contractor to perform the Study, and legal successors to the Principal and permitted assignees of the Principal.
- (h) "Contractor's Software", the object code versions of any downloadable software owned by or duly licensed to the Contractor solely for the purpose of accessing the Study, including but not limited to an agent, together with the updates, new releases or versions, modifications or enhancements, owned or licensed to and provided by the Contractor to the Principal pursuant to this Agreement, together with all pertinent Documentation and other instructions related to such software.
- (i) "Corrective Period", as defined in accordance with Clause 9.2.
- (j) "Costs", direct costs reasonably incurred in relation to the Project. Specifically, the Cost shall include any of the following:
 - (i) costs of all materials and supplies forming part of the Study, including transportation and storage expenses (discounts for cash or prompt payments will not reduce these costs);
 - (ii) salaries for personnel in the direct employ of the Contractor in the performance of the Study or relating to the Study;
 - (iii) salaries of the Contractor's employees for the time that they spend in connection with the Study;
 - (iv) payments to sub-contractors for Works relating to the Study;
 - (v) costs of all employee benefits and taxes for items such as social security and other benefits for the labour and employees;
 - (vi) costs, including transportation and maintenance, of equipment and hand tools not owned by workmen employed by the Contractor which are employed or consumed toward the Study;
 - (vii) payments for rental charges for machinery, equipment, facilities and tools used in connection with the Study, and payments for installations, repairs, replacements, dismantling, removal, lubrication, transportation and delivery of those rental items;
 - (viii) other transportation costs incurred in connection with the Study;
 - (ix) that portion attributable to this Agreement of premiums for insurance that is required by this Agreement (if applicable) or by law to be obtained or maintained by the Contractor;
 - (x) sales, use, gross receipts or other taxes related to the Study, imposed by any governmental authority, to the extent that the Contractor is responsible for such taxes;
 - (xi) costs of long-distance telephone calls, telephone service at the site and postage relating to the Study;

- (xii) costs of any data processing services used in connection with the performance of the Work required under this Agreement; and
 - (xiii) losses and expenses, not compensated by insurance, sustained by the Contractor in connection with the Works under this Agreement (if applicable), provided they resulted from causes other than the fault or neglect of the Contractor.
- (k) "Cure Period", as defined in accordance with Clause 7.3.
 - (l) "Damages", any cost, claim, damage, demand, loss, expense or liability incurred by the relevant Party or Person.
 - (m) "Defect", a part of the Study which is not in accordance with the Schedule of Study specified in accordance with *Annex B: Technical Specification*, the Applicable Law or Good Industry Practice.
 - (n) "Defects Date", a date specified in accordance with *Annex C: Schedule of the Study* by which date the Principal, or the Contractor is obliged to notify about each Defect in each Deliverable.
 - (o) "Deliverable", any information, notes, material, drawings (including drawings in 3D model), records, documents and/or other items which the Contractor is required to deliver to the Principal as part of the Study, as further specified pursuant to *Annex C: Schedule of the Study*.
 - (p) "Design Guidelines", a set of predefined and standardized technically and economically justified engineering and design solutions for Rail Baltica to be applied at design, construction and operation phases of the Railway. Design Guidelines are mandatory for all stakeholders involved in the design and construction of the Railway.
 - (q) "Documentation", all records, correspondence, and files of the Contractor, its employees, engineers, and consultants pertaining to the Project.
 - (r) "Effective Date", as first above specified in the Preamble to this Agreement.
 - (s) "Fee", as specified in accordance with *Annex D: Fee and Payment Schedule*.
 - (t) "EUR" and "euro", the official currency of the eurozone, officially known as the euro area.
 - (u) "Final Acceptance Date", as defined in accordance with Clause 7.7.
 - (v) "Final Acceptance Note", as described in accordance with Clause 7.7.
 - (w) "Force Majeure Event", any of the following events:
 - (i) an act of the public enemy or war (declared or undeclared), threat of war, revolution, riot, insurrection, civil commotion, demonstration or sabotage;
 - (ii) an act of vandalism or accidental damage or destruction of machinery, equipment, track or other infrastructure;
 - (iii) a natural disaster or phenomena, including extreme weather or environmental conditions (such as lightning, earthquake, hurricane, storm, fire, flood, drought or accumulation of snow or ice);
 - (iv) nuclear, chemical or biological contamination;
 - (v) pressure waves caused by devices travelling at supersonic speeds;
 - (vi) discovery of fossils, antiquities or unexploded bombs; and/or
 - (vii) strike, lockout or other industrial action other than involving the Contractor or the Principal.
 - (x) "Good Industry Practice", in relation to the performance of any activity to which this standard is applied, the exercise of that degree of skill, diligence, prudence and foresight as would reasonably be expected to be exercised by a properly qualified and competent person engaged in carrying out Work, Study or services of a similar size, nature, scope, type and complexity, complying with Applicable Law, applicable Standards and published codes of practice.
 - (y) "Intellectual Property", all intellectual property rights in any part of the world in respect of any documentation or information provided by the Contractor to the Principal, including any patent, patent application, trade mark, trade mark application, registered design, registered design application, utility model, trade name, discovery, invention, process, formula, specification, copyright (including all neighbouring rights, rights in computer software and database and topography rights), know how or unregistered design right.

- (z) "Intellectual Property of the Contractor", all Intellectual Property owned or licensed to the Contractor with a right to sub-license.
- (aa) "Objection Notice", as defined in accordance with Clause 7.5.
- (bb) "Party" and "Parties", the Principal and the Contractor and include their respective successors in title, permitted assigns and permitted transferees.
- (cc) "Person" shall include any person, company, body corporate, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) or two or more of the foregoing.
- (dd) "Project", development of a 1435 mm standard gauge railway line in the Rail Baltica (RB) corridor through Estonia, Latvia and Lithuania aimed at eliminating the technical bottleneck due to the gauge differences (1,520 mm vs. the EU standard of 1,435 mm).
- (ee) "Principal", the company RB Rail AS, as further specified in the Preamble of this Agreement, which employs the services of the Contractor, and legal successors to the Contractor and permitted assignees of the Contractor.
- (ff) "Provisional Acceptance Note", as defined in accordance with Clause 7.5.
- (gg) "Provisional Completion Note", as defined in accordance with Clause 7.4.
- (hh) "Railway", a new fast conventional double track electrified railway line according TSI INF P2-F1 criteria and European standard gauge (1435 mm) on the Route.
- (ii) "Residence Certificate", a certificate mentioned in Clause 5.2(g).
- (jj) "Right of Partial Acceptance", as defined in accordance with Clause 9.6.
- (kk) "Standards", CEF Standards and Grant Agreement Standards;
- (ll) "Study", a Technical study and design proposals for Rail Baltica Infrastructure Maintenance Facilities, that shall be done in accordance with requirements defined in Design Guidelines and *Annex B: Technical Specification*;
- (mm) "Study Milestone", the date for delivery of one or more Deliverables, as set out in the *Annex B: Technical Specification* and *Annex C: Schedule of the Study*;
- (nn) "Study Start Date", as specified in accordance with *Annex C: Schedule of the Study*.
- (oo) "VAT", value added tax;
- (pp) "Working Day", any day (other than Saturday or Sunday) on which banks in the Republic of Latvia are open for conduct of business.
- (qq) "Works", all incidental works, steps and actions performed by the Contractor for the attainment of the objectives of the Study and/or the Project.

**TECHNICAL SPECIFICATION
FOR THE OPEN PROCEDURE**

**"TECHNICAL STUDY AND DESIGN PROPOSALS FOR RAIL BALTICA INFRASTRUCTURE MAINTENANCE
FACILITIES"**

(ID NO RBR 2018/25)



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

Riga, 2018

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1. INTRODUCTION AND REFERENCES

1.1. Introduction

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 (Rail Baltica) 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 transshipment and logistics development opportunities along the Europe and Asia overland trade routes. The new Rail Baltica infrastructure would, therefore, not only put the Baltics firmly on the European rail logistics map, but also create massive opportunities for value creation along this infrastructure with such secondary economic benefits as commercial property development, revitalization of dilapidated urban areas, private spin-off investment, new business formation, technology transfer and innovation, tourism development and other catalytic effects. Rail Baltica aims to promote these effects from the early stages of the Global Project, learning from the key global success stories and benchmarks in this regard.

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

The shareholders’ structure of RBR is presented in Figure 1.

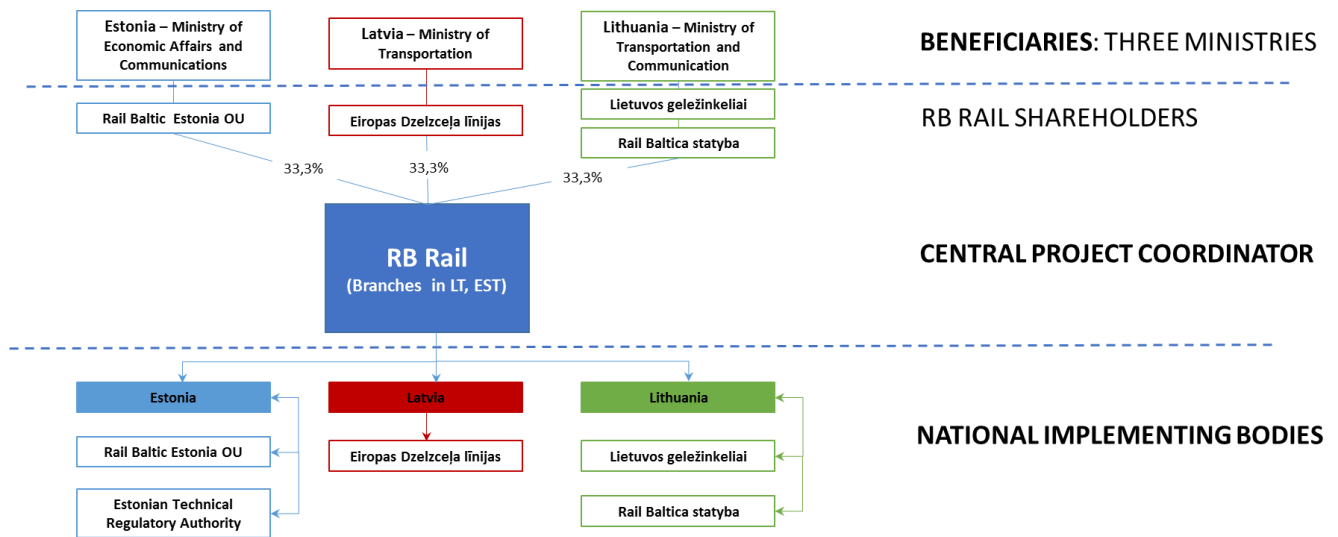


Figure 1. RB Rail AS shareholders' structure

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

Rail Baltica is a joint project of three EU Member States – Estonia, Latvia and Lithuania – and concerns the building of a fast conventional double track 1435 mm gauge electrified railway line on the route from Tallinn through Pärnu (EE), Riga (LV), Riga International Airport (LV), Panevėžys (LT), Kaunas (LT) to the Lithuania/Poland state border (including connection Kaunas - Vilnius). 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 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/>.

Further information is available in <http://www.railbaltica.org/>.

Abbreviations and terms

Ad hoc TWG – Technical work group (group of experts from stakeholders and involved parties nominated by the Contracting Authority).

BIM – Building Information Modelling: set of technologies, processes and policies enabling multiple stakeholders to collaboratively design, construct and operate a Facility in virtual space.

CAPEX – capital expenditure.

CD – commencement date of the Contract.

CDE – Common Data Environment. For more details see BIM Manual.

Construction base – facilities which are a part of the Rail Baltica railway infrastructure to ensure proper construction of the infrastructure. They consist of railway tracks, storage areas, premises for the construction personnel and related civil structures to accommodate railway infrastructure construction trains, machinery, spare parts, loading/unloading facilities, personnel, equipment and materials, etc. Construction bases shall allow easy transshipment of materials and equipment from 1520 mm railway and road. After the completion of the infrastructure construction, the construction bases shall be whether dismantled, whether transformed in IMF.

Contractor – as defined in Study agreement.

Country – Republic of Lithuania (LT), Latvia (LV), Estonia (EE).

Detailed Technical Design – final stage of the design process in accordance with national construction law / building act regulations and it gives right to start construction works. It is a set of documents (including drawings in 3D model) which clearly and precisely shows the routes of the railways and all infrastructure objects and facilities and has a detailed design of all scope of the project.

Design Guidelines – set of predefined and standardized technically and economically justified engineering and design solutions for Rail Baltica to be applied at design, construction and operation phases of the Railway. Design Guidelines are mandatory for all stakeholders involved in the design and construction of the Railway.

Design proposals – completed pre-design (conceptual design) stage of Infrastructure Maintenance Facilities along Rail Baltica railway line in Estonia, Latvia and Lithuania in the Level of detailing which corresponds to: Sketch design ("eskiis") in Estonia, Building design in a minimum composition ("Būvprojekts minimālā sastāvā (MBP)") in Latvia and Design proposals ("Projektiniai pasiūlymai").

EIA – Environmental impact assessment.

Environmental analysis – evaluation of potential impacts to the natural environment based on proposed solutions and assessment of the environmental consequences (positive and negative) of considered options. Environmental analysis covers full EIA scope of works except for formal procedures and actions. Environmental analysis includes scoping, description of the project and environment, impact prediction and description, impact significance, mitigation measures, environmental noise and air pollution modelling and mapping, determination if EIA is required, decision making, and other.

EU – European Union.

IMF – Infrastructure maintenance facilities. These facilities are a part of the Rail Baltica railway infrastructure to ensure proper maintenance of the built infrastructure. They consist of railway tracks, storage areas, premises for the maintenance personnel and related civil structures to accommodate railway infrastructure maintenance machinery, spare parts, loading/unloading facilities, personnel, equipment and materials, training facilities, etc.

Infrastructure (Railway infrastructure) – has the same meaning as an identical term in the Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast).

LCC – life-cycle cost.

LOD – Level of Development. For more details see BIM Manual.

Master Design – Consolidated approach of full design documentation package aimed towards detailed technical design by considering all legal requirements set out in national construction legislation and following the established Design Guidelines for the railway. The result of Master Design is a set of documents

(incl. drawings in 3D model, BIM model) which clearly shows the scope of the project, includes a situation plan with an accurate placement of the railway line, other buildings and structures, detailed track layout, main signalling, contact line, electrical network details, etc. The scope of this set has to be wide and precise enough so that the main details and the main requirements for precise detailing are clear.

MCA (Multi-Criteria Analysis) – identification and choosing alternatives to find the best solution based on different factors and considering the decision-makers’ expectations. Multi-criteria analysis aims to compare different actions or solutions according to a variety of criteria set, based on the quantitative and qualitative assessment of actions by means of a weighted average and scoring. The output is a hierarchy of the different options that can be argued for on the basis of the scores obtained by each option for each criterion.

MIDP – Master Information Delivery Plan, as defined in BIM Manual.

National studies – detailed engineering and feasibility studies on implementation of Rail Baltica project in each of the three Baltic states, covering EIA, SEA, preliminary design, feasibility studies, spatial planning and similar activities.

Operational plan (Operational Plan Concept for Rail Baltica railway corridor) – set of documents including a detailed plan for the trains operation of Rail Baltica railway, description and benchmarking of typical rolling stock to be operated, a draft of infrastructure and rolling stock maintenance plan, recommendations to ensure interoperability of Rail Baltica railway, recommendations for technical parameters to be taken into account for design and construction of the Railway, recommendations for technical parameters to be taken into account for design and construction of infrastructure and rolling stock maintenance facilities, and recommendations for the Control Command systems of the Railway. In general, Operational plan defines infrastructure maintenance strategy and organization, infrastructure maintenance facilities, equipment and dedicated rolling stock, and other.

OPEX – operating expenses.

PL – Poland.

RAMS – Reliability, Availability, Maintainability, and Safety. RAMS design criteria for the Rail Baltica railway and RAMS targets must be achieved by the operating Rail Baltica railway.

Rail Baltica Project – new fast conventional double track electrified European standard gauge (1435 mm) railway line on the route from Tallinn through Pärnu (EE), Riga (LV), Panevėžys (LT), Kaunas (LT) to Lithuanian - Polish border, with the connection of Kaunas - Vilnius.

SEA – Strategic environmental assessment.

Service(-es) – the services to be provided by the Contractor while developing the Study.

Study – Technical study and design proposals for Rail Baltica Infrastructure Maintenance Facilities, that shall be done in accordance with requirements defined in Design Guidelines and this Technical specification;

Technical specification – the present document forming a part of Open Competition regulations and Contract following the procurement procedures.

TRG (Technical reference group) – coordination and alignment body for the implementation of the technical substance of Rail Baltica Project with the ultimate aim to ensure interoperability within the project and alignment between parties involved in Rail Baltica Project implementation.

TSI – Technical Specifications for Interoperability.

WP – Work package.

1.2. Documents, studies and information to be taken into account “List of input data provided by the Contracting authority”

1.2.1. For implementation of Study the Contractor shall consider the following non-exhaustive list of documents, studies, study projects and spatial development planning documents:

Main documents (non-exhaustive list):

Ref.	Title of document, date of issuance, Web link
1	Design Guidelines for reference scope, high level contents and key design criteria please refer here:

	http://www.railbaltica.org/wp-content/uploads/2018/04/Kaido_ZimmermanJean-Marc_Bedmar_RBGF2018_Day2.pdf http://www.railbaltica.org/wp-content/uploads/2018/04/Elodie_Faivre_RBGF2018_Day2.pdf
2	Operational plan (ongoing) (necessary output data to be developed and provided by signing the contract). See Technical specification: http://www.railbaltica.org/tenders/open-competition-preparation-of-the-operational-plan-of-the-railway/
3	Rail Baltica Global Project Cost-Benefit Analysis, 2017: http://railbaltica.org/cost-benefit-analysis/
4	RB Rail's BIM documentation (BIM requirements will be provided after commencement of the Contract during the inception phase): http://www.railbaltica.org/rb-rail-as-bim-documentation/
5	Rail Baltica Visual Identity Guidebook: http://www.railbaltica.org/wp-content/uploads/2017/05/RailBaltica_Visual_Identity_Guidebook032017.pdf
6	County-wide spatial plans for Estonia: 1) Rail Baltic, Harju County plan for determining the location of the Rail Baltica railway corridor", http://www.maavalitsus.ee/127 2) Rail Baltic, "Rapla County plan for determining the location of the Rail Baltica railway corridor", http://www.maavalitsus.ee/120 3) Rail Baltic, "Pärnu County plan for determining the location of the Rail Baltica railway corridor", http://www.maavalitsus.ee/147
7	Long term plans and assessments applicable for Rail Baltica in Estonia: 1) Approved report of Strategic Environmental Assessment: http://railbaltic.info/et/materjalid/keskkonnamoju-strateegiline-hindamine-ksh/category/1356-heakskiidetud-ksh-aruanne-9-08-2017 2) Estonia 2030+ "National spatial plan Estonia 2030+": https://www.valitsus.ee/sites/default/files/content-editors/arengukavad/eesti_2030.pdf
8	Preliminary Study of Technical and Spatial Requirement of Maintenance Depot (study will be provided after commencement of the Contract during the inception phase)
9	Rail Baltica studies for Estonia, general information website: https://rbestonia.ee
10	Rail Baltica studies for Latvia: Environmental Impact Assessment: http://www.railbaltica.org/about-rail-baltica/documentation/
11	AECOM Rail Baltica Feasibility Study Amendment – Analysis of Vilnius Extension: https://sumin.lrv.lt/uploads/sumin/documents/files/Veikla/Veiklos_sritys/Gelezinkeliu_transportas/%E2%80%9ERail%20Baltica%E2%80%9C_projektas/AECOM_Vilnius_(1).pdf
12	Special plan of the European gauge railway line Kaunas - Lithuanian/Latvian state border (unofficial translation to English will be provided after commencement of the Contract during the inception phase): http://www.rail-baltica.lt/news/103/75/Europinio-standarto-gelezinkelio-linijos-Kaunas-Lietuvos-ir-Latvijos-valstybiu-siena-specialusis-planas/
13	Study on Rail Baltica Section "Polish / Lithuanian State Border – Kaunas – RRT Palemonas" Upgrade (for informative purpose will be provided after commencement of the Contract during the inception phase)
14	The European gauge railway line between Kaunas and the Lithuanian - Latvian state border environmental impact assessment report (unofficial translation to English will be provided after commencement of the Contract during the inception phase): http://www.rail-baltica.lt/news/107/75/Europinio-standarto-gelezinkelio-linijos-Kaunas-Lietuvos-ir-Latvijos-valstybiu-siena-poveikio-aplinkai-vertinimas/
15	Vilnius connection to "Rail Baltica" project feasibility study (for informative purpose will be provided after commencement of the Contract during the inception phase)

- Other relevant documents can be found at RB Rail AS web page: www.railbaltica.org.
- Documents for which an Internet link is not stated will be provided by the Contracting authority during the implementation of the Study.
- The Contractor shall consider all other significant information and documents with either direct or indirect relation to the Study project or providing background information.

- The Contractor shall consider Country's national legislation, all relevant national as well as EU standards and TSI.
- The Contractor shall consider the relevant part of contents of Design Guidelines for Rail Baltica in force. The purpose of Design Guidelines is to provide engineers a standardized approach to Rail Baltica design. This prevents additional costs from being incurred when a design solution already exists and assists maintainers at the stage of operation of the railway. Parts of Design Guidelines which refer to this study are as follows:
 - a) General requirements;
 - b) Railway alignment;
 - c) Railway superstructure – track;
 - d) Railway substructure, Part 1 – embankments and earthworks;
 - e) Railway substructure, Part 2 – hydraulic, drainage and culverts;
 - f) Railway substructure, Part 3 – bridges, overpasses, tunnels and similar structures;
 - g) Railway energy, Part 1 – traction power system;
 - h) Railway energy, Part 2 – catenary;
 - i) Railway energy, Part 3 – non-traction power supply;
 - j) Railway Control-Command Signalling system;
 - k) Infrastructure facilities;
 - l) Stations and passenger platforms;
 - a) Environment;
 - b) Adaption to Climate Change;
 - c) RAMS;
 - d) Main line general cross-sections: Main line embankment - Double track;
 - e) Main line general cross-sections: Depot / Multimodal Terminal;
 - f) Main line general cross-sections: Main line embankment - Passing loop at grade;
 - g) Architectural and landscaping, visual design requirements.

The Contractor will be able to get acquainted with the Design guidelines after contract signing in the inception phase of the Study.
- Infrastructure maintenance (WP 6) part of Operational plan. Other parts of Operational plan relevant to the subject of the Study, if necessary.

2. OVERALL FRAMEWORK OF THE ASSIGNMENT

- 2.1. Rail Baltica railway line will require constant and proper maintenance of the line and traffic safety, and yet there are no current railway infrastructure maintenance facilities for 1435 mm gauge infrastructure. In regard to gauge differences, there is no optimal possibility to use the existing infrastructure servicing 1520 mm gauge infrastructure, without an adaptation. Furthermore, the Rail Baltica IMF shall be designed as self-standing, and independent of any 1520 mm infrastructure maintenance facilities. **The principal objective of the assignment is to develop the Study along Rail Baltica railway line in Estonia, Latvia and Lithuania.**
- 2.2. Study results will be mandatory for initiation of EIA and/or SEA studies and spatial planning process where relevant as well as for Detailed Technical Design of local facilities – Rail Baltica railway infrastructure maintenance facilities in Estonia, Latvia and Lithuania.
- 2.3. Study Corridor (Figure 2) is defined as the railway lines, stations, service and maintenance facilities and all other associated objects, on the routes:
 - a) (PL/LT border) - Kaunas node - Panevėžys - (LT/LV border) - Riga node - (LV/EE border) - Pärnu - Tallinn node;
 - b) Kaunas node - Vilnius node;
 - c) Existing 1435 mm gauge railway line: (PL/LT border) - Kaunas node.



Figure 2. Study Corridor

Table 1. Indicative length of the Rail Baltica railway alignment sections based on Operational plan data

Section	Length
EE: Tallin (Ülemiste) - Pärnu - Border EE/LV	201 km
LV: Border EE/LV - Riga - RIX - Border LV/LT	235 km
LV: Riga Bypass	29 km
LT: Border LT/LV - Palemonas - Kaunas	180 km
LT: Kaunas - Jiesia	10 km
LT: Jiesia - Border LT/PL ²	87 km
LT: Kaunas Triangle South Junction - Vilnius	93 km
LT: Kaunas Bypass (Palemonas - Jiesia)	16 km
Total:	851 km

3. CONTENT OF THE ASSIGNMENT

3.1. Overall framework

3.1.1. The Contractor shall undertake an extensive analysis to identify the most feasible level of standardization of the solutions for the IMF across Rail Baltica railway in all three countries. In order to be more effective and to benefit from potential economies of scale both in railway construction and operation phases, this activity shall cover Estonia, Latvia and Lithuania. The study aims at finding most efficient solution for IMF, thus operational efficiency for the railway, analysing railway infrastructure maintenance for all three Countries. The Contractor shall use the outputs from Operational plan, which are conceptual ones, and, according to the Technical specification of this Study, elaborate them in detail for each IMF location, based on justified strategy and benchmarking for every railway infrastructure component. The outputs of the Study (roadmap, cost estimates, design proposals, planning conditions and design technical conditions) shall form a basis for the further actions/steps and relevant procedures: update of Rail Baltica Project CBA, EIA and/or SEA, spatial planning and/or land acquisition and/or design phase (depending on each Country specifics), design & build contracts. These further actions/steps and relevant procedures are out of scope of the Study. The Contractor shall carry out the Study in work packages according to three general stages:

- **Input data analysis and option definition (WP 1).** WP 1 covers analysis of studies (EIA and/or SEA studies, spatial plans, preliminary/conceptual designs, Operational plan and other studies with relevance to Rail Baltica railway and its IMF), definition of specific functional and technical requirements for IMF and construction bases, proposal of location options according to defined requirements (3-5 options per Country) – existing (defined) and new locations, as well as construction base proposal;
- **Option analysis (WP 2).** WP 2 covers environmental analysis, spatial and topographic constraints analysis as well as assessment of selected options (two best options selection per country), MCA;
- **Design proposals elaboration (WP 3).** WP 3 covers design proposals for two best options per country, roadmap for further steps and actions to be taken, input data provision for land acquisition, spatial planning, CBA update (lifecycle costs, etc.) and initiation of EIA and/or SEA procedures,

² 107 km length of existing LT 1435 mm gauge railway section Jiesia - Border PL/LT is not included

- construction bases proposal, planning conditions and design technical conditions obtainment (after best options design proposals elaboration).
- 3.1.2. The Contractor shall understand and apply, in the delivery of the scope under this Contract, the principles of railway operation, maintenance and safety, taking into account assurance of complete interoperability.
- 3.1.3. The Contractor shall ensure that the proposed solutions benefit the Rail Baltica project in terms of economies of scale in design, construction, operation and maintenance of the railway.
- 3.1.4. **Assumptions**
- 3.1.4.1. Operational Plan will evaluate the needs in maintenance of the railway infrastructure, define global infrastructure maintenance strategy and organization.
- 3.1.4.2. Operational Plan, based on defined railway infrastructure maintenance strategy and organization, will conceptually evaluate and define multiple topics and issues, including but not limited to:
- Infrastructure maintenance facilities and its locations, including all tracks, buildings and fixed equipment dedicated to the maintenance of the infrastructure, as maintenance bases general or specialized to a component, specific laboratory and plant, administrative buildings, training facilities, storages of material, access road and paths, etc.;
 - Equipment, including all tools, machines, industrial equipment dedicated to the maintenance of the infrastructure, and generally located in maintenance facilities; it also includes the material stocks (e.g.: sleeper and rail spare parts, ballast stockpiles, overhead contact line structure elements, cable rolls, etc.);
 - Rolling stock dedicated to the maintenance of the infrastructure include all tracks and catenary maintenance machines (dumper, grinder, etc.), infrastructure parameter measurement trainsets, inspection draisine, locomotives and dedicated wagons, etc.
 - Number of staff positions needed to maintain the infrastructure, inside maintenance bases, laboratories, buildings and in other locations, based on benchmarking of similar type of railway maintenance, considering necessary work conditions (day shifts, night shifts, on duty) as well as climatic conditions;
 - Reasonable response/reaction time necessary for maintenance, repair works, extreme situations and accident recovery activities;
 - Overview on types organization principles of maintenance in common.
- 3.1.4.3. Infrastructure management strategy is subject to a separate ongoing study. For the sake of this Study, the Contractor shall assume railway Infrastructure manager approach (one Infrastructure manager, or multiple managers), as well as distribution of works and services – to outsource and hire in-house, based on infrastructure management study outcome. More details will be provided to the Contractor after commencement of the Contract during the inception phase.
- 3.1.4.4. Study will consider conditions to be met to achieve interoperability within the EU rail system, which are defined in Directive (EU) 2016/797, Directive 2008/57/EC.
- 3.1.4.5. Study will cover rail system structural and functional areas (subsystems), as it is defined in Annex II to Directive (EU) 2016/797, Directive 2008/57/EC.
- 3.1.4.6. Study will consider essential requirements, which are defined in Annex III to Directive (EU) 2016/797, Directive 2008/57/EC.
- 3.1.4.7. The status of Study related Countries' activities (for informative purposes):
- EE: spatial planning for "Rail Baltica" railway is completed; study done from national perspective for Maintenance Depot location (Comparison of alternatives of the study and the results of the Environmental Impact Assessment and the results of the cost-benefit analysis have defined the best possible location to be km 69.3 Pärnu County, Tori Municipality (former Sauga Municipality), southwestern part of Urge Village, registered immovables Salumaa, Väljaotsa, Taali forest district 57, Oru, Orasselja, Orasselja and 19214 Jänesselja–Urge Road. The maintenance centre and the maintenance points related to the locations of the traction substations.).
 - LV: spatial planning ongoing / EIA done for "Rail Baltica" railway, main infrastructure maintenance facility location proposed to establish near Vangaži at 1435mm and 1520mm gauge railway intersection.
 - LT: spatial planning done for "Rail Baltica" railway section Kaunas - Lithuanian/Latvian state border, land acquisition ongoing (IMF are not foreseen yet); 1435 mm gauge railway line Lithuanian/Polish border - Kaunas built, Upgrade study for the section Lithuanian/Polish border - Kaunas completed (IMF are not foreseen yet); Vilnius connection to "Rail Baltica" is in planning phase, feasibility study on-going.
- 3.1.4.8. Time horizon to consider, based on Operational plan, is the year 2056.

- 3.1.4.9. Rail Baltica railway is considered as mixed traffic (passenger and freight) railway with daily scheduled trains.
- 3.2. Input data analysis and option definition (WP 1)**
- 3.2.4. WP 1.1 - Analysis of studies**
- 3.2.4.1. The Contractor shall perform comprehensive context analysis focusing on actors, responsibilities, and roles within construction, management, maintenance and operation, rulemaking and supervision, current national and EU policies and future changes, considering the following non-exhaustive list of EIA studies, spatial plans, conceptual/preliminary designs, and other studies provided in Section 1.2 of this Technical specification, as well as other significant information and documents with either direct or indirect relation to the Study, or providing background information, relevant recommendations, guidelines, standards and TSI.
- 3.2.4.2. Based on the result of the analysis the Contractor shall report on the steps, actions and decisions that has been done before as well as key aspects to be taken into consideration while preparing the Study. The report shall identify further interoperability and harmonization needs in terms of joint uniform and standardized approach, identifying problematic issues.
- 3.2.5. WP 1.2 - Definition of specific functional and technical requirements**
- 3.2.5.1. Based on the result of the analysis performed in WP 1.1 the Contractor shall define specific functional and technical requirements for IMF and construction bases. Design Guidelines' basis shall be used for standardized joint engineering approach considering design, construction and operation phases of the railway.
- 3.2.5.2. The Contractor shall define constraints which influence IMF option selection, such as horizontal and vertical alignment of main railway line, transport accessibility, protected areas, sanitary and safety zones, underground and aboveground utilities (electric, gas, water, storm water, wastewater, telecommunications, etc.).
- 3.2.5.3. The Contractor shall undertake an analysis of the selected previously proposed IMF location options and described characteristics. The best and future proof solution shall be proposed.
- 3.2.5.4. The Contractor shall analyse the possibility to plan and construct additional IMF railway tracks with the function of rail yard considering non-infrastructure maintenance rolling stock demands.
- 3.2.5.5. The Contractor shall undertake a benchmarking study of best practice applied for railway infrastructure maintenance of railway networks (or part of railway networks) / sections with the similar size as Rail Baltica (at least 5 (five) case studies in 3 (three) different countries) on IMF development and application in fast conventional electrified railway projects/networks. The primary interest with the benchmarking study:
- Response/reaction time (in case of accident, maintenance and/or repair demand);
 - Distance between IMF;
 - Sizing and location of facilities;
 - Organization of maintenance works, including maintenance coverage distances;
 - Chosen maintenance model;
 - Climate conditions;
 - What kind of maintenance works is reasonable to make in-house and what kind of works should be outsourced;
 - Digitalization and IT technologies in maintenance works / application best practice and future technologies' trends;
 - BIM approach, experience and practice;
 - Maintenance machinery: technology, high-rail (road-rail) and / or rail-mounted vehicles, efficiency, etc.;
 - IMF synergy with rolling stock maintenance facilities;
 - IMF synergy with non-infrastructure maintenance rolling stock.
- 3.2.5.6. Particular attention shall be given to the climatic conditions, and its impact on the railway maintenance, railway IMF functions, organizational and technical parameters.
- 3.2.5.7. The Contractor shall propose and report on best practices and most effective integration of IMF into Rail Baltica railway infrastructure and provide the scenarios for integration within spatial planning, design and other national legislation framework in each of the Baltic countries, with standardized approach and maximum focus on input from Operational plan joint proposals.
- 3.2.6. WP 1.3 - Proposal of location options according to defined requirements**
- 3.2.6.1. Based on Operational plan conceptual proposals as well as analysis performed in WP 1.1 and requirements defined in WP 1.2 location options shall be specified in a way that it shall be

- economically efficient from the point of view of the operations of the railway and based on the optimization across the whole Rail Baltica route within Countries.
- 3.2.6.2. LT IMF allocation and servicing capacities should be evaluated with respect to already built (existing) AB "Lietuvos geležinkeliai" 1435 mm gauge railway infrastructure needs (PL/LT border - Šeštokai - Jiesia - Kaunas).
- 3.2.6.3. As the result of WP 1.3 the Contractor shall reconfirm and/or specify the exact location and the functionalities of maintenance facilities on the basis of the preliminary route/spatial planning results and Operational plan study in Estonia, Latvia and Lithuania. These shall be 3-5 location options of IMF in each Country considering already performed studies and planning, taking into consideration temporary construction base approach. IMF concept locations defined in Operational Plan shall be elaborated more precisely and reported on key issues. Modular approach shall be considered, i.e. development in different phases and/or further extension possibilities shall be defined and described.
- 3.2.6.4. The Contractor shall consider railway infrastructure maintenance works and services to outsource and hire in-house.
- 3.2.7. **WP 1.4 - Construction bases proposal**
- 3.2.7.1. The Contractor shall propose options for the construction bases focusing on rail system linear parts construction, such as railway track substructure and superstructure, overhead catenary line.
- 3.2.7.2. Both permanent and temporary usage of possible locations (territories) approaches shall be applied.
- 3.2.7.3. The Contractor shall develop high-level construction logistics plan with a focus on substructure and overhead catenary line construction works.
- 3.2.7.4. The Contractor shall consider possibility to use existing 1520 mm railway infrastructure for construction logistics.
- 3.3. **Option analysis (WP 2)**
- 3.3.4. **WP 2.1 – Environmental and spatial constraints analysis**
- 3.3.4.1. Guided by WP 1 results to evaluate potential impacts to the natural environment and society based on proposed options as well as to assess options' viability within defined constraints the Contractor shall complete environmental analysis, spatial planning and engineering-topographic analysis for each of the options proposed in WP 1.3.
- 3.3.4.2. Environmental analysis shall be implemented in two-stage approach:
- I) The Contractor shall ensure that the environmental protection issues are considered in the earliest stage of the planning (3-5 locations optioneering), including high-level noise and air pollution modelling, thus enabling provisions for integrated impact prevention and avoidance measures instead of technical negative impact abating solutions;
 - II) The Contractor shall detail environmental impact analysis for two best options.
- 3.3.4.3. Environmental analysis I stage result shall be input for data WP 2.2.
- 3.3.4.4. Environmental analysis II stage result shall be output data of WP 3.1.
- 3.3.5. **WP 2.2 – Assessment of selected options, MCA**
- 3.3.5.1. For existing (defined in previous studies) IMF options information from previous studies shall be taken as an input data.
- 3.3.5.2. Contractor shall use as much as possible quantitative indicators and criteria set in MCA process and shall provide calculations.
- 3.3.5.3. The Contractor shall propose the method for MCA which contains but is not limited to the following indicative
- a) compliance (yes/no) criteria:
 - compliance with Operational Plan;
 - compliance with Design Guidelines;
 - connection with railway station sidings, passing loops;
 - connection with 1520 mm railway infrastructure;
 - temporary construction base approach application possibility;
 - other;
 - b) technical criteria
 - geometric and functional factors: length of the tracks, further development perspective;
 - geotechnical and geological conditions;
 - hydrological conditions;
 - intersections with existing roads and highways;
 - intersections with water courses;
 - power supply (electrical substation) accessibility;

- affected meliorated areas;
 - reconstruction/rebuilding/replacement of existing structures and buildings;
 - sanitary/safety/security zones constraints;
 - use of IMF location for the temporary construction base (linear railway elements);
- c) operational criteria
- response time (in case of accident, maintenance and/or repair demand);
 - possible synergy from locating together with rolling stock maintenance facility;
 - interaction between IMF in different Countries;
 - transport accessibility: existing roads and highways, 1520 mm railway infrastructure;
 - energy consumption;
 - synergy with non-infrastructure maintenance rolling stock demands;
 - use of existing 1520 mm railway infrastructure for the construction logistics;
- d) RAMS criteria
- e) environmental and climate change criteria
- land plots with residential buildings affected;
 - number of archaeology / cultural heritage objects affected;
 - environmental impact: energy consumption;
 - environmental impact: air pollution reduction;
 - environmental impact: water pollution reduction;
 - environmental impact: noise and vibration reduction;
 - environmental impact: CO₂ emission reduction / mitigation climate change;
 - environmental impact: flora and fauna;
 - environmental impact: amount of waste generated during construction and operation;
 - environmental impact: high-level environmental modelling results;
- f) social criteria
- labour force availability (geographical position);
- g) economical criteria
- CAPEX;
 - OPEX;
 - LCC (infrastructure and buildings);
 - existing land use (commercial/residential, etc.);
- h) project management / implementation criteria
- constraints and delays due to additional land acquisition;
 - alternative implementation time parameters.
- 3.3.5.4. The Contractor shall perform rough cost (CAPEX) estimate based on main works and their unit cost for proposed options what shall be the input data for MCA.
- 3.3.5.5. The Contractor shall perform high-level OPEX estimate for each proposed option on building energy use and maintenance, railway track and road maintenance, maintenance machinery operation, maintenance and renewal, staff cost, etc.
- 3.3.5.6. The Contractor shall perform MCA according to approved method, weights, scores and provide results of MCA – 2 best options for each Country.
- 3.3. Design proposals elaboration (WP 3)**
- 3.3.1. WP 3.1 – Design proposals for two best options**
- 3.3.1.1. The Contractor shall elaborate design proposals as an input data for Rail Baltica Project CBA update, EIA and/or SAE, spatial planning, land acquisition (where relevant) and design phase for two best options per Country, precisely defining every type of facilities, equipment and rolling stock, human resources dedicated to the maintenance of the electrified railway infrastructure, including drawings, schemes, explanatory notes, etc. One preferable option shall be identified. Detailed technical drawings covering IMF layouts with a detailing level corresponding to BIM LOD 200. BIM and LOD are described in the BIM Employer's Information Requirements and BIM Manual.
- 3.3.1.2. The Contractor shall provide a MIDP and propose the list of text and graphical documents, such as drawings, sketches, plans, schemes, diagrams, etc., by proposing exact appearance of these documents for design proposals to define the scope of graphical documents and minimum level of detailing. Alternative scales may be offered. The Consultant shall correct/ improve/ supplement the MIDP, list and/or minimum level of detailing and get Contracting Authority's approval. Consultant shall provide any additional graphic materials/documents or other information if it is necessary to do according to reasonable requirements of third parties.
- 3.3.1.3. Technical solutions shall cover (including development in different phases and/or further extension possibilities) but not limited to:

- Schematic layout of Rail Baltica railway line (will be provided to Contractor after commencement of the Contract during the inception phase) with IMF locations;
- Construction base layout;
- Schematic IMF layout;
- Detailed IMF layout (horizontal alignment) (scale 1:1000) with related structures/buildings placement;
- Railway tracks typical cross-sections (scale 1:100) including superstructure and substructure;
- Maintenance paths;
- Technological level crossings for the maintenance and repair machinery road-rail transition;
- Access, maintenance roads and paths;
- Any additional drawings and documents according to Country's legislation.
- Technological, movement/transportation schemes;
- Buildings;
- Specific laboratory and plant;
- Equipment;
- Storage areas;
- Parking spaces;
- 3D visualization;
- Construction planning;
- Power needs and connection to the public grid.

IMF layouts aligned with main railway line shall be presented on topographic and orthophoto base.

3.3.1.4. Access to IMF Maintenance Base – 80 or 100 km/h at grade junction to reach the loop is recommended. Then entering the maintenance base and train running inside IMF at 30 km/h is an agreed standard. The exact requirements for speed in turnouts will be defined by the Operation plan.

3.3.2. WP 3.2 – Roadmap for further steps and actions to be taken

3.3.2.1. The Contractor shall prepare and present a strategic plan that defines the goals and outcomes, including major steps and milestones needed to implement design proposals, considering the time frame of Rail Baltica Project.

3.3.2.2. The Contractor shall propose reasonable Design proposals' implementation stages considering further development perspective, demands, constraints, timeline, etc.

3.3.3. WP 3.3 – Cost estimates

3.3.3.1. The Contractor shall present detailed cost estimate CAPEX for design proposals implementation. Cost estimate shall cover design solutions for two best options per Country. All direct and indirect costs, also VAT shall be identified and grouped by engineering structures, buildings, equipment (sections/elements). Units of measurement (km, m², m³, pcs, etc.), unit prices and sums (sections/elements costs) shall be indicated.

3.3.4. WP 3.4 – Input data provision for land acquisition, spatial planning, CBA update (lifecycle costs, etc.) and initiation of EIA and/or SEA procedures

3.3.4.1. The Contractor shall provide all necessary information for land acquisition and spatial planning procedures (where relevant): prepare the final list of real estates and land plots with borders needed for the IMF and related civil structures. For each land plot a detailed drawing must be prepared, indicating current land plot borders and necessary part for land acquisition, surface area values, which takes into account local municipality rules of land division and provision of access to the remaining land plot parts.

3.3.4.2. The Contractor shall provide all necessary information for initiating EIA and/or SEA procedures where relevant and to the extent defined in the scope of works of this particular Study.

3.3.4.3. The Contractor shall provide detailed CAPEX and OPEX calculations input data for future Rail Baltica Project CBA and Business plan update. OPEX refinement of Operational plan findings.

3.3.5. WP 3.5 – Construction bases proposal

3.3.5.1. The Contractor shall assess of opportunity for each IMF location usage as a construction base.

3.3.5.2. The Contractor shall present construction base layout proposal at conceptual level in case IMF could be used as a construction base.

3.3.6. WP 3.6 – Preliminary planning conditions and design technical conditions obtainment

3.3.6.1. The Contractor shall apply and receive stakeholders' preliminary planning conditions and design technical conditions and requirements where relevant necessary to implement further steps: update

of Rail Baltica Project CBA, EIA and/or SEA, spatial planning and/or land acquisition and/or design phase (where relevant). The aim of this task is to identify expectations/requirements of stakeholders and minimize possible risks of changing the concept substantially later during planning and design phases.

4. SERVICE CONTRACT MANAGEMENT

4.1. Contractor's obligations

- 4.1.1. For the provision of Services, the Contractor shall remain fully responsible for the results of its Services during and after the provision of Services. Any additional expenses arisen due to the correction of the unacceptable results shall be covered solely by the Contractor. On reasonable grounds Contracting authority reserves the right to request the Contractor to correct the results of its Services regardless whether it is necessary during the period of Service provision or after completion of thereof.
- 4.1.2. The Contractor shall ensure necessary effort, means, resources and personnel required for the successful provision of Services.
- 4.1.3. The Contractor shall be responsible for ensuring that its experts included in Contract are available throughout the Service provision period.
- 4.1.4. The Contractor must keep records and other supporting documentation (original supporting documents) as evidence that the Contract is performed correctly, and the expenses were actually incurred. These must be available for review upon the request of Contracting authority.
- 4.1.5. The Contractor shall make its own arrangements for office facilities, personal computers and other facilities of appropriate performance and security standard for Service provision.
- 4.1.6. The Contractor shall ensure that its team members (experts etc.) involved in Service provision are adequately supported and equipped. In particular, the Contractor shall ensure that there is sufficient administrative, secretarial and interpreting provision to enable team members to concentrate on their primary responsibilities. The Contractor must also transfer funds as necessary to support its activities under the Contract and ensure that his employees are paid regularly and in a timely manner. Costs for administration of service contract and office operation including telecommunication costs shall be included.
- 4.1.7. The Contractor will arrange for formal coordination and decision making on project interventions and establish an adequate internal management structure. Progress meetings with the Contracting authority are held at least once in two weeks (2 (two) times per month). If needed, ad-hoc and weekly meetings can be arranged, which may be initiated both by the Contractor, or the Contracting authority.
- 4.1.8. Contracting authority is main coordinator of the communication between the Contractor, stakeholders and other third parties. The Contractor shall be responsible for timely provision of information, preparation and participation in the meetings, workshops, presentations necessary for the communication with stakeholders and other third parties within Study's scope. No direct communication between the Contractor, stakeholders and other third parties is allowed without permission of Contracting authority.
- 4.1.9. The Contractor shall collect possible stakeholders' requirements for the Study.
- 4.1.10. Ad-hoc TWG shall be established by the Contracting authority consisting of key stakeholders of Rail Baltica project delivery organization. The governance of ad hoc TWG shall done via rules of procedure established by Contracting authority. Contracting authority shall call at least 5 (five) ad-hoc TWG and 2 (two) TRG meetings to present the deliverables of the Study and discuss the results. In addition, the Contractor shall present Draft Final and Final reports to Beneficiaries. It is up to the Contractor to propose the meeting schedule and agenda.
- 4.1.11. The Contractor shall prepare minutes after each meeting, workshop with the stakeholders.

4.2. Provision of Services

- 4.2.1. The Contractor must perform the Contract in compliance with its provisions and all legal obligations under applicable EU, international and national law within the set deadlines and to the highest professional, diligence and ethical standards.

- 4.2.2. The Contractor shall prepare detailed Study programme (project plan) for its services to be provided during the Study. Study programme shall include graphical representation of main study's milestones and deadlines of deliverables as required in Technical specification. Study programme shall cover possible risks for study implementation and mitigation measures to avoid those risks in order to complete the study on time. The purpose of Study programme is to reflect Contractor's deep understanding of Study's objectives, scope and milestones as well as to present Contractor's endeavour to cover all necessary subjects and provided high quality professional Consulting services on time.
- 4.2.3. The Contractor shall carry out the tasks, prepare and provide all documents, reports, minutes of the meetings and any other information material required for the provision of the Services.
- 4.2.4. During the implementation of Services, the Contractor shall identify possible risks at early stage and propose a mitigation measures in order to successfully deliver Services on time.
- 4.2.5. As a part of Services, the Contractor shall prepare information material in a fully comprehensive and understandable way, by providing explicit and full source details (initial information, evidences, etc.) used for the analysis and provision of Services. The deliverables shall include detailed explanation of methods employed that lead to the solutions delivered by the Contractor.
- 4.2.6. Contracting authority shall have no influence on outcome results (reports, summary, advice, decisions, etc.) delivered by the Contractor. However, the Contractor shall consider Contracting authority's reasoned observations on the initial information used and analysis methods employed by the Contractor to provide outcome results of the Services. The implementation of such observations is subject to the approval of the Services by Contracting authority.
- 4.2.7. Together with the Final report delivery, the Contractor shall provide a separate Final completion report (administrative report) on Study implementation process, covering the good practices to be shared and issues arisen that could be improved. The main topics to be covered in this report are as follows:
 - 4.2.7.1. clarity and consistency of the tasks appointed to the Contractor;
 - 4.2.7.2. communication and cooperation with the Contracting authority (local institutions, stakeholders etc.);
 - 4.2.7.3. definition and deadlines for the milestones;
 - 4.2.7.4. provision of input data;
 - 4.2.7.5. issues encountered and recommendations for the improvement of study implementation process;
 - 4.2.7.6. any observations and suggestions of the further steps to be taken by the Contracting Authority or key stakeholders
 - 4.2.7.7. other.

4.3. Contractor's team

- 4.3.1. The Contractor shall propose an optimum structure for its team, based on the conditions of Technical specification, and where possible propose a core team with cross-functional roles.
- 4.3.2. For the provision of Services, the Contractor shall ensure the availability of the following team members:
 - 4.3.2.1. Key experts

No	Title
1.	Project Manager
2.	Railway infrastructure maintenance expert
3.	Civil Engineer in 1435 mm railway track design
4.	Environmental expert
5.	Civil Engineer in buildings and structures design

4.3.2.2. Non-key experts and other personnel to cover following fields of expertise. Professional qualification, experience, education of Non-key experts will not be evaluated in accordance with requirements stipulated in Section 8.5 of the Regulations. Involvement of Non-key experts will be evaluated in accordance with evaluation of the quality of Tenderer's Technical proposal.

No	Field of expertise*
1.	Railway operation
2.	Architecture
3.	Landscape design
4.	Spatial planning
5.	Civil engineering in 1520 mm railway track design
6.	Civil engineering in roads design
7.	Civil engineering in water, wastewater utilities design
8.	Civil engineering in power supply
9.	Civil engineering in energy efficiency
10.	Railway engineering in energy (including overhead catenary system) sub-system design
11.	Railway engineering in control-command and signalling (including telecommunications) sub-system design
12.	Railway construction logistics
13.	Geotechnical engineering
14.	Environmental engineering, including, but not limited to noise and vibrations, air pollution, clean technologies, etc.
15.	Other fields of expertise (to be proposed by Contractor, if needed)

** The Contracting Authority expects that the Tenderer will propose involvement of non-key experts covering the fields of expertise as indicated above. The non-key experts may cover more than one field of expertise. The role of the non-key expert (as example, field of expertise, etc.), the level of involvement of the non-key expert (as example, short-term expert, backstopping expert, etc.) shall be indicated by the Tenderer in the Technical proposal.*

4.4. Confidentiality, independence and absence of conflict of interest

- 4.4.1. The Contractor is expected to ensure that its contractual and professional obligations in particular with regard to confidentiality, independence and absence of conflict of interests are well understood and upheld throughout and after Services provision.
- 4.4.2. During the provision of Services, the Contractor shall provide independent view based on its expertise, education and experience. the Contractor cannot show nor indicate any opinion linked to a particular supplier, company, organization, institution whatsoever. No representation of any region, country, personal interests shall be shown by the Contractor throughout the Service provision period.

4.5. Miscellaneous

- 4.5.1. Communication under Contract (e.g. information, requests, submissions, formal notifications, etc.) must be carried out in English.
- 4.5.2. All written materials, including all deliverables, shall meet the highest standards of English language and technical terminology proficiency. If requested by the Contracting authority, the Contractor shall engage professional proofreading Services at its own expense.
- 4.5.3. Contracting authority is deemed as the administrative instance and will be responsible for making the principal decisions. The Contracting authority will be responsible for settling the operative and professional issues.

4.6. Deliverables and deadlines

- 4.6.1. Services to be provided by the Contractor are split into the following deliverables:

No.	Deliverable	General scope and contents of deliverable
1	Inception report	Detailed methodology, list of studies to analyse, data to analyse, final report draft table of contents, benchmarking study methodology, key hypothesis, etc.
2	Interim report	Preliminary design analysis, benchmarking study, scope definition, functionality and layout definition, etc.
3	Draft Final report	Submission of full final report covering all parts of the study
4	Final report	Re-submission of the final report according to Contracting Authority's comments

- 4.6.2. Study results (deliverables) shall be delivered by the Contractor according to the following deadlines:

No.	Deliverable	Submission deadline	Review time through Contracting authority
1	Inception report	4 weeks after CD*	2 weeks after reception
2	Interim report	12 weeks after CD*	4 weeks after reception
3	Draft final report	20 weeks after CD*	4 weeks after reception
4	Final report	26 weeks after CD*	4 weeks after reception

*CD – the commencement date.

Contracting authority will accept Inception report and Final report only if it is provided fully in good and enough quality and covers full scope defined in Technical specification.

Contracting authority will accept Interim and Draft final reports and after reviewing it will provide comments and remarks that must be implemented and/or considered until the submission of subsequent report.

If there are substantial issues regarding the quality of deliverable, Contracting authority will require the resubmission of the report.

- 4.6.3. The deadline for the provision of the Services is 26 (twenty-six) weeks from the commencement date.
- 4.6.4. The Contractor shall furnish to the Contracting authority 2 (two) copies of prints (hard copies) of each report, including drawings and text documents.
- 4.6.5. All models, drawings, data and documents shall be submitted to Contracting authority in authoring tool native file formats and exchange format specified in BIM Employer’s Information Requirements and BIM Manual either to CDE, or submitted another way agreed with the Contracting authority after commencement of the Contract during the inception phase.

Annex C: Schedule of the Study

1. Study Start Date: Effective date of the Contract

2. Study Milestones: n/a

3. Deliverables:

No	Deliverable	Deadline date ³	Defects Date
1.	Inception report	4 weeks after CD*	2 weeks after reception
3.	Interim report	12 weeks after CD*	4 weeks after reception
4.	Draft final report	20 weeks after CD*	4 weeks after reception
5.	Final report	26 weeks after CD*	4 weeks after reception

*CD - the commencement date (the Effective date)

4. The Principal will accept Inception report and Final report only if it is provided fully in good and enough quality and covers full scope defined in *Annex B: Technical Specification*.

5. The Principal will accept Interim and Draft final reports and after reviewing it will provide comments and remarks that must be implemented and/or considered until the submission of subsequent report.

³ In accordance with Section 4.2.6 of the Annex B (*Technical Specification*).

Annex D: Fee and Payment Schedule

1. **Fee:** Fee in the amount of 292 211,82 EUR (two hundred ninety-two thousand two hundred eleven *euros* eighty-two cents), including all taxes.
2. **Schedule of payment of Fee:** after delivery of the following Deliverables and acceptance by signing of the Provisional Acceptance Note or Final Acceptance Note the Principal shall pay following amount of the Fee:

Deliverable	Payment amount	
	%	EUR
Interim Report	30	87 663,55
Draft Final Report	40	116 884,72
Final Study report	30	87 663,55

Annex E: List of approved Sub-Contractors and Staff

[Confidential]

Annex F: Form of Provisional Completion Note

No [INSERT NUMBER]

Date: [INSERT DATE IN THE FORM OF 1 January 2018]

Location: [INSERT LOCATION]

For:

RB Rail AS

registration number 40103845025 legal address K. Valdemāra iela 8-7, Riga LV-1010, Latvia

(hereinafter, the "Principal")

This provisional completion note (the "Provisional Completion Note") is issued to the Principal by [.] [INSERT NAME, REGISTRATION NUMBER, INSERT LEGAL ADDRESS] (the "Contractor"), represented by [INSERT NAME OF REPRESENTATIVE ON THE BASIS OF INSERT BASIS OF REPRESENTATION].

In this Provisional Completion Note, unless the context requires otherwise, all Definitions shall have the meaning ascribed to such terms in accordance with the [INSERT AGREEMENT DATE IN THE FORM OF STUDY AGREEMENT NO INSERT AGREEMENT NUMBER] (the "Agreement") and *Annex A: Definitions and common terms* of the Agreement.

Whereas:

- (A) the Principal and the Contractor have entered into the Agreement;
- (B) Clause 7.4 of the Agreement stipulates that upon meeting a Study Milestone or producing a Deliverable constituting all or an identifiable part of the *Annex B: Technical Specification*, the Contractor shall issue to the Principal a Provisional Completion Note substantially in the form of *Annex F: Form of Provisional Completion Note* of the Agreement;
- (C) a Study Milestone has been met or a Deliverable has been completed.

The following Study Milestone(s) has/have been met on [INSERT DATE IN THE FORM OF 1 JANUARY 2018], as specified in accordance with *Annex C: Schedule of the Study of the Agreement*:

[DESCRIBE IN REASONABLE DETAIL THE STUDY MILESTONE ATTAINED. INSERT N/A, IF NO STUDY MILESTONE HAS BEEN ATTAINED]

The following Deliverable(s) has/have been completed on [INSERT DATE IN THE FORM OF 1 JANUARY 2018] and are attached to this Provisional Completion Note:

[INSERT NAME OF THE DELIVERABLE. INSERT N/A, IF NO DELIVERABLES HAVE BEEN COMPLETED]

As stipulated in Clause 7.5 of the Agreement, in the event the Principal objects to the issue of the Provisional Completion Note, the Principal shall give a written notice to the Contractor setting out in reasonable detail Defects or reasons for the objection (the "Objection Notice") within fourteen (14) OR twenty eight (28) days [AS APPLICABLE] following receipt of the Provisional Completion Note.

In the event of conflict between the text in this Provisional Completion Note and the Agreement, the Agreement shall take precedence.

Signature:

[INSERT NAME, SURNAME

INSERT POSITION

INSERT COMPANY NAME]

Annex G: Form of Provisional Acceptance Note

No [INSERT NUMBER]

Date: [INSERT DATE IN THE FORM OF 1 January 2018]

Location: [INSERT LOCATION]

For: [•] (the "Contractor")

This Provisional Acceptance Note (the "Provisional Acceptance Note") is issued to the Contractor by RB Rail AS, registration number 40103845025, legal address K. Valdemāra iela 8-7, Riga, LV-1010 (the "Principal"), represented by [INSERT NAME OF REPRESENTATIVE ON THE BASIS OF INSERT BASIS OF REPRESENTATION].

In this Provisional Acceptance Note, unless the context requires otherwise, all Definitions shall have the meaning ascribed to such terms in accordance with the [INSERT AGREEMENT DATE] Agreement on [INSERT AGREEMENT NAME] No [INSERT AGREEMENT NUMBER] (the "Agreement") and *Annex A: Definitions and common terms* of the Agreement.

Whereas:

- (A) the Principal and the Contractor have entered into the Agreement;
- (B) the following Study Milestone(s) has been met and the following Deliverable(s) have been supplied to the Principal:
 - (i) [PLEASE IDENTIFY MILESTONE]
 - (ii) [PLEASE IDENTIFY DELIVERABLE]
- (C) any and all Defects have been averted or no Objection Notices have been issued;
- (D) as stipulated by Clause 7.5 of the Agreement, in the event no reasons for objection to the Provisional Completion Note exist, the Principal shall issue, within reasonable time following receipt of the Provisional Completion Note, a provisional acceptance note in the form of *Annex G: Form of Provisional Acceptance Note*.

The Principal is satisfied with the result of any and all achieved Study Milestones and/or Deliverables completed and submitted and, in accordance with Clause 7.5 of the Agreement, the Principal accepts the part of the Study performed as of the date of this Provisional Acceptance Note.

In the event of conflict between the text in this Provisional Acceptance Note and the Agreement, the Agreement shall take precedence.

Signatures:

[INSERT NAME, SURNAME

INSERT POSITION

INSERT COMPANY NAME]

Annex H: Form of Final Acceptance Note

No [INSERT NUMBER]

Date: [INSERT DATE IN THE FORM OF 1 January 2018]

Location: [INSERT LOCATION]

For: [•] (the "Contractor")

This Final Acceptance Note (the "Final Acceptance Note") is issued to the Contractor by RB Rail AS, registration number 40103845025, legal address K. Valdemāra iela 8-7, Riga, LV-1010 (the "Principal"), represented by [INSERT NAME OF REPRESENTATIVE ON THE BASIS OF INSERT BASIS OF REPRESENTATION].

In this Final Acceptance Note, unless the context requires otherwise, all Definitions shall have the meaning ascribed to such terms in accordance with the Agreement on „Architectural, landscaping and visual identity guidelines for Rail Baltica" No [INSERT AGREEMENT NUMBER] dated [INSERT DATE] (the "Agreement") and *Annex A: Definitions and common terms* of the Agreement.

Whereas:

- (A) the Principal and the Contractor have entered into the Agreement;
- (B) one or more Study Milestones have been met and/or Deliverables have been completed;
- (C) any and all Defects have been averted or no Objection Notices have been issued;
- (D) as stipulated by Clause 7.7 of the Agreement, final acceptance shall be evidenced by means of the Principal issuing and both Parties attaching their signature to the Final Acceptance Note substantially in the form of *Annex H: Form of Final Acceptance Note* (the "Final Acceptance Note");

The Principal is satisfied with the result of the Study and/or all Deliverables completed and submitted, and the Principal accepts the Study in its entirety.

The Principal and the Contractor confirm at the moment of signing this Final Acceptance Note that they do not have any material or other claims in connection with the Agreement (incl. but not limited to additional claims for Fee, contracting penalties, travel expenses, claims related to intellectual property, etc.).

In the event of conflict between the text in this Final Acceptance Note and the Agreement, the Agreement shall take precedence.

Signatures:

[INSERT NAME, SURNAME

INSERT POSITION]

RB Rail AS

Principal

Annex I: Declaration of Contractor

I, the undersigned duly authorised representative, on behalf of partnership formed by ARDANUY INGENIERÍA, S.A. and INGENIERÍA Y ECONOMÍA DEL TRANSPORTE, S.M.E. M.P., S.A. undertake:

1. To respect the freely-exercised right of workers, without distinction, to organize, further and defend their interests and to bargain collectively, as well as to protect those workers from any action or other form of discrimination related to the exercise of their right to organize, to carry out trade union activities and to bargain collectively;
2. Not to use forced or compulsory labour in all its forms, including but not limited to not employ people against their own free will, nor to require people to lodge 'deposits' or identity papers upon commencing employment;
3. Not to employ: (a) children below 14 years of age or, if higher than that age, the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of a contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher; and (b) persons under the age of 18 for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons;
4. To ensure equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and such other ground as may be recognized under the national law of the country or countries where the performance, in whole or in part, of a contract takes place;
5. To ensure the payment of wages in legal fashion, at regular intervals no longer than one month, in full and directly to the workers concerned; to keep an appropriate record of such payments. Deductions from wages will be conducted only under conditions and to the extent prescribed by the applicable law, regulations or collective Contract, and the workers concerned shall be informed of such deductions at the time of each payment. The wages, hours of work and other conditions of work shall be not less favourable than the best conditions prevailing locally (i.e., as contained in: (i) collective Contracts covering a substantial proportion of employers and workers; (ii) arbitration awards; or (iii) applicable laws or regulations), for work of the same character performed in the trade or industry concerned in the area where work is carried out;
6. To ensure, so far as is reasonably practicable, that: (a) the workplaces, machinery, equipment and processes under their control are safe and without risk to health; (b) the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and (c) where necessary, adequate protective clothing and protective equipment are provided to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects to health;
7. To support and respect the protection of internationally proclaimed human rights and not to become complicit in human rights abuses;
8. To create and maintain an environment that treats all employees with dignity and respect and will not use any threats of violence, sexual exploitation or abuse, verbal or psychological harassment or abuse. No harsh or inhumane treatment coercion or corporal punishment of any kind is tolerated, nor is there to be the threat of any such treatment;
9. To have an effective environmental policy and to comply with existing legislation and regulations regarding the protection of the environment; wherever possible support a precautionary approach to environmental matters, undertake initiatives to promote greater environmental responsibility and encourage the diffusion of environmentally friendly technologies implementing sound life-cycle practices;
10. To identify and manage chemical and other materials posing a hazard if released to the environment to ensure their safe handling, movement, storage, recycling or reuse and disposal;
11. To monitor, control and treat as required prior to discharge or disposal wastewater and solid waste generated from operations, industrial processes and sanitation facilities;
12. To characterize, monitor, control and treat as required prior to discharge or disposal air emissions of volatile organic chemicals, aerosols, corrosives, particulates, ozone depleting chemicals and combustion by-products generated from operations;
13. To reduce or eliminate at the source or by practices, such as modifying production, maintenance and facility processes, materials substitution, conservation, recycling and re-using materials, waste of all types, including water and energy;
14. To adhere to the highest standards of moral and ethical conduct, to respect local laws and not engage in any form of corrupt practices, including but not limited to extortion, fraud, or bribery;

15. To disclose (a) any situation that may appear as a conflict of interest, such as but not limited to: where a Contractor or an undertaking related to the Contractor has advised a Beneficiary or Implementing Body or has otherwise been involved in the preparation of the procurement procedure; and (b) if any Beneficiaries' or Implementing Bodies' official, professional under contract with Beneficiary or Implementing Body or sub-contractor may have a direct or indirect interest of any kind in the Contractor's business or any kind of economic ties with the Contractor;

16. Not to offer any benefit such as free goods or services, employment or sales opportunity to a Beneficiary's and Implementing Body's staff member in order to facilitate the Contractors' business with Beneficiaries or Implementing Bodies;

17. Within a period set in the applicable national legislation following separation from service or award of a contract, as the case may be, to refrain from offering employment to any Beneficiaries' and Implementing Bodies' staff in service and former Beneficiaries' and Implementing Bodies' staff members who participated in the procurement process and to whom a legal restriction to receive material benefits from or be employed by a Contractor which participated in a procurement procedure or restrictions with similar effect applies;

18. To promote the adoption of the principles set forth in this Contractor's Declaration by my potential business partners and promote the implementation of the principles set forth in this document towards own Contractors;

19. Not procure goods, works and services from other Contractors:

a. Who, or its member of the Management Board or the Supervisory Board or procurator of such Contractor, or a person having the right to represent such Contractor in activities related to a subsidiary, has been found guilty in any of the following criminal offences by a such punishment prescription of prosecutor or a judgement of a court that has entered into effect and is non-disputable and not subject to appeal:

i. bribetaking, bribery, bribe misappropriation, intermediation in bribery, taking of prohibited benefit or commercial bribing;

ii. fraud, misappropriation or laundering;

iii. evading payment of taxes and payments equivalent thereto,

iv. terrorism, financing of terrorism, invitation to terrorism, terrorism threats or recruiting and training of a person for performance of terror acts;

b. who, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of an infringement of employment rights which means:

i. employment of such one or more citizens or nationals of countries, which are not citizens or nationals of the European Union Member States, if they reside in the territory of the European Union Member States illegally;

ii. employment of one person without entering into a written employment contract, not submitting an informative declaration regarding employees in respect of such person within a time period laid down in the laws and regulations, which is to be submitted regarding persons who commence work;

c. who, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of infringement of competition rights manifested as a vertical Contract aimed at restricting the opportunity of a purchaser to determine the resale price, or horizontal cartel Contract, except for the case when the relevant authority, upon determining infringement of competition rights, has released the candidate or tenderer from a fine or reduced fine within the framework of the co-operation leniency programme;

d. whose insolvency proceedings have been announced (except the case where a bailout or similar set of measures is applied within insolvency proceedings oriented towards prevention of possible bankruptcy and restoration of solvency of the debtor, in which case I shall evaluate the possibility of such Contractor to participate in the tender), economic activity of such Contractor has been suspended or discontinued, proceedings regarding bankruptcy of such Contractor have been initiated or such Contractor will be liquidated;

e. who has tax debts in the country where the procurement is organised or a country where such Contractor is registered or permanently residing, including debts of State social insurance contributions, in total exceeding an amount which is common threshold in public procurements in the respective country.

Jevgenijus Pičuginas, authorized person, 27 December 2018

Annex J: Contractor's Proposal

[Confidential]