

**FRAMEWORK AGREEMENT
ON
THE SUPPLY OF TEMPORARY PROFESSIONAL STAFF**

between

RB Rail AS

and

partnership consisting of Linum Consult Ltd and Brunel Energy Europe BV

Contract registration number **1.19/LV-2021-8-1**

Procurement procedure identification No **RBR 2020/11**

CEF 1: INEA/CEF/TRAN/M2014/1045990

PISM Activity No 23 (A23);

CEF 2: INEA/CEF/TRANS/M2015/1129482

PISM Activity No 18 (B18);

CEF 3: INEA/CEF/TRANS/M2016/1360716

PISM Activity No 9 (C09);

CEF 6s: INEA/CEF/TRAN/M2019/2098304

PISM Activity No 9 (D09);

CEF 6w: INEA/CEF/TRAN/M2019/2098073

PISM Activity No 11 (E11);

and future CEF Agreements.

Riga

Dated 16.02.2021.

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FRAMEWORK AGREEMENT NO 1.19/LV-2021-8-1
ON THE SUPPLY OF TEMPORARY PROFESSIONAL STAFF

This Framework agreement (the "Agreement"), together with all Annexes thereto, is entered into in Riga, 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 Agnis Driksna acting on the basis of the Regulations on Representation Rights dated 20 July 2020, on the one side,

and

partnership consisting of Linum Consult Ltd, a limited liability company registered in the United Kingdom with registration No 08033643, legal address at 209 Liverpool Road, Southport, Merseyside, England, PR8 4PA, and **Brunel Energy Europe BV**, a private limited company registered in the Netherlands with registration No 34186664, legal address at Rotterdam Airportbaan 19, 3045 An Rotterdam, Netherland (the "Contractor"), represented by Francis Gregory Ryan, Director of Linum Consult Ltd, acting on the basis of Letter of Agreement between Linum Consult Ltd and Brunel Energy Europe BV granted in the presence of Linum Consult Ltd on 28 October 2020, on the other side,

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

WHEREAS:

- (A) this Agreement is entered into under the Global Project which includes all activities undertaken by the respective beneficiaries and implementing bodies of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania in order to build, render operational and commercialise the Rail Baltica railway – a new fast conventional double track electrified railway line according TSI INF P2-F1 criteria and European standard gauge (1435mm) on the route from Tallinn through Pärnu-Riga-Panevėžys-Kaunas to Lithuanian-Polish border, with the connection of Kaunas – Vilnius, and related railway infrastructure in accordance with the agreed route, technical parameters and time schedule;
- (B) RB Rail has organised a procurement procedure "Supply of temporary professional staff for RB Rail AS" (identification No RBR 2020/11) (the "Procurement Procedure");
- (C) in the Procurement Procedure the Contractor's tender proposal (the "Contractor's Proposal"; enclosed to this Agreement as *Annex G: Contractor's Proposal*) as well as the tender proposal of **EWI RECRUITMENT LIMITED**, a limited liability company registered in the United Kingdom under registration No 7864306, legal address at 5th floor 4 Coleman St., London, EC2R 5 AR (the "Other Contractor"), were selected for entering into framework agreement;
- (D) this Agreement is co-financed from the Connecting Europe Facility (CEF).

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.*
 - 1.2.1 The headings contained in this Agreement shall not be used in its interpretation.
 - 1.2.2 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.
 - 1.2.3 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.

- 1.2.4 In the event there arises a conflict between provisions of the Agreement, the last provision to have been written chronologically shall take precedence.
- 1.2.5 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.
- 1.2.6 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:
 - 1.2.6.1 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
 - 1.2.6.2 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.
- 1.2.7 A reference to "writing" shall include an e-mail transmission and any means of reproducing words in a tangible and permanently visible form.
- 1.2.8 The words "include" and "including" are to be construed without limitation.
- 1.2.9 Unless indicated otherwise, all references to "days" shall mean calendar days, but "Business Days" shall mean any day except any Saturday, any Sunday and any day which is a legal holiday in the Republic of Latvia.
- 1.2.10 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:
 - 1.3.1 this Agreement;
 - 1.3.2 Explanations (clarifications) of the Procurement Procedure documentation;
 - 1.3.3 Procurement Procedure documents with the annexes (including *Annex B: Technical Specifications*);
 - 1.3.4 Clarifications of the Contractor's Proposal;
 - 1.3.5 Contractor's Proposal;
 - 1.3.6 Respective Assignment Order;
 - 1.3.7 All other Annexes of the Agreement.

Section II. Subject of the Agreement

- 2.1 *General subject.* This Agreement sets out the rights and obligations, terms and conditions that apply to the Parties of this Agreement where the Contractor is contracted by the Principal to provide Services to the Principal for the successful implementation of the Project.
- 2.2 *Scope and engagement.* The scope of Services to be provided by the Contractor to the Principal is described in detail in *Annex B: Technical Specification*. The procedure for the provision of Services is further elaborated in Section IV of this Agreement.
- 2.3 *Framework.* The purpose of the Agreement is to define the terms and conditions under which the Contractor will provide Services to the Principal on an **on-demand** basis. The Agreement is framework-based and does not impose an obligation whatsoever on the Principal to appoint the Contractor to provide Services nor does it guarantee any exclusive right to the Contractor to provide Services to the Principal.

- 2.4 *Acquisition of an Assignment.* This Agreement entitles the Contractor to participate in mini-competitions for an Assignment. The Contractor is solely responsible for its costs and expenses incurred in relation to the participation in mini-competitions.
- 2.5 *Assignment Order.* For every Assignment, a separate Assignment Order (based on Draft of the Assignment Order included in *Annex C: Draft Assignment Order*) will be issued by the Principal and confirmed by the Contractor.
- 2.6 *Mutual agreement.* The Contractor undertakes to provide the Services only on the basis of a mutually confirmed Assignment Order, the conditions and provisions thereof being binding on both the Contractor as well as the Principal.

Section III. Term and value of the Framework Agreements

- 3.1 *On demand basis.* This Agreement as well as the other identical Framework Agreements concluded with the Other Contractor are on-demand based with no fixed work-load and/or fixed overall value.
- 3.2 *Total value.* The total value of all Framework Agreements concluded as a result of the Procurement Procedure together is: 5 500 000,00 EUR (five million five thousand euro and 00 cents), excluding VAT.
- 3.3 *Principal's discretion in procuring Services.* However, this total value does not in any way bind the Principal to procure Services through this Agreement or other Framework Agreements for the entirety of the total value or any other guaranteed amount.
- 3.4 *Term.* The term of the Agreement is 24 (**twenty-four**) months starting from the date the Principal has signed the Agreement.
- 3.5 *Expiry and termination.* After the expiry of the Agreement term or once the total value has been reached, no more new Assignment Orders can be concluded. The Agreement terminates once all of the existing Assignment Orders are fully completed by the Contractor and approved by the Principal and the Parties have fulfilled their contractual obligations arising out of this Agreement.

Section IV. Appointment of an Assignment

- 4.1 *Selection of Contractor or Other Contractors.* In order to receive Services, the Principal will select the Contractor or the Other Contractor and conclude an Assignment Order. The Assignment will be allocated by conducting a **mini-competition** amongst the Contractor and Other Contractor.
- 4.2 *Procedure for Mini-competition.*
- 4.2.1 The Principal invites the Contractor as well as Other Contractor to implement an Assignment by sending a request for proposal (the "Request for Proposal") specifying:
- 4.2.1.1 the details of the role to be performed and associated project details as required;
- 4.2.1.2 the experience, training, qualifications, authorisations and regulatory requirements which the Principal considers necessary or which are required by law or any professional body for the Temporary Professional Staff to possess in order to work the position;
- 4.2.1.3 the date the Principal requires the Temporary Professional Staff to commence the Assignment;
- 4.2.1.4 the duration or likely duration of the Assignment;
- 4.2.1.5 the location and hours of work;
- 4.2.1.6 any risks to health or safety known to the Principal and what steps and measures the Principal has taken to prevent or control such risks; and
- 4.2.1.7 the minimum / maximum daily rate, expenses and any other benefits that would be offered to the respective Temporary Professional Staff.
- 4.2.2 After receiving the Request for Proposal, the Contractor will, within (3) Business Days, unless otherwise specified in the Request for Proposal, respond by sending its proposal (the proposal may include multiple options for prospective Temporary Professional Staff) to implement an Assignment. The exact contents of the Contractor's proposal are dependent on the respective Request for Proposal (e.g. requiring the submission of a CV of the respective Temporary Professional Staff and other information

as mentioned Clause 4.2.1.). Failing to respond to the Request for Proposal within the required time period will be considered as a rejection to participate in the respective mini-competition;

- 4.2.3 Mini-competition proposals received from the Contractor and Other Contractor will be evaluated by the Principal. The most economically advantageous proposal will be awarded with the implementation of the particular Assignment. If the proposals received from the Contractor/Other Contractor exceed the planned budget or are otherwise untenable to the Principal, the Principal reserves the right to discontinue the mini-competition;
 - 4.2.4 The Principal will choose the winner of the mini-competition for the provision of the particular Assignment by comparing and evaluating the received proposals based on the criteria specified in the specific Request for Proposal that will follow these general criteria (listed in no particular order and containing no specific value):
 - 4.2.4.1 Amount of the daily rate multiplied by the Administrative Charge for the respective Temporary Professional Staff (e.g. if the daily rate is set at EUR 50 and the Administrative Charge of the Contractor is 10%, then the final evaluable amount for the respective Temporary Professional Staff would be EUR 55 (50 + (50x10%)));
 - 4.2.4.2 Time necessary to begin the provision of the particular Assignment;
 - 4.2.4.3 Experience and other quantitative or qualitative skills of the respective Temporary Professional Staff of the Contractor.
 - 4.2.5 The Principal has the right during the evaluation process to conduct interviews with the Temporary Professional Staff of the Contractor and/or check the information submitted (for example by contacting previous employers of the Temporary Professional Staff) in order to assess the experience and suitability for the respective Assignment. The Principal has the right to perform a security clearance check in accordance with the principles of Clause 7.5. of this Agreement in respect to the Temporary Professional Staff of the Contractor or Other Contractor who has submitted the preliminarily most economically advantageous proposal;
 - 4.2.6 The Principal shall inform the Contractor and Other Contractor on the results of each mini-competition;
 - 4.2.7 The Contractor or Other Contractor with the most economically advantageous proposal shall be invited to sign the Assignment Order. The Contractor if it is invited to sign the Assignment Order should then draft the specific Assignment Order substantially in the form of *Annex C: Draft Assignment Order* based on the information laid down in the specific Request for Proposal and its own proposal in the mini-competition as a response to the Request for Proposal and align it with the Principal by e-mail. Aligned Assignment Order should be signed and sent to the Principal as soon as possible but not later than within the five (5) Business Days after receiving the request to draft it. The Assignment Order is first signed by the Contractor and then by the Principal;
 - 4.2.8 After the Request for Proposal to implement an Assignment (including corresponding Assignment Order) is accepted and signed by the Principal, the conditions and provisions set out in the Assignment Order and the proposal of the mini-competition will become binding upon the Parties of the particular Assignment and the particular Assignment has to be executed in accordance with its specific requirements as well as the general provisions set out in this Agreement.
- 4.3 *General duty of participation.* The Contractor has a right to reject the Principal's Request for Proposal only in exceptional cases related when the Contractor envisages that the implementation of a particular Assignment would result in a conflict with the requirements set in this Agreement, or in case of a conflict of interest as stated in Clause 4.5 of this Agreement, or if the Contractor cannot offer Temporary Professional Staff suitable for the fulfilment on the particular Assignment. The decision of the Contractor to reject the Principal's Request for Proposal shall be provided in writing by stating the reasons for such decision in sufficient detail.
 - 4.4 *Additional information.* The Contractor has the right to request reasonable explanatory information from the Principal regarding the specifics of provision of an Assignment. If the Principal finds it necessary to respond, the Principal has the obligation to disclose information provided to the Contractor also to Other Contractor if such information may influence the contents of the Contractor's bid in the respective mini-competition.
 - 4.5 *Conflict of interests.* Considering that the Contractor may have already provided Professional Temporary Staff to third parties that have or may have conflicting interests with the Principal, the Contractor shall immediately notify the Principal of such a possibility and will abstain from participating in the respective mini-competition

where the assignment of Contractor's proposed Professional Temporary Staff may result in a conflict of interest.

Section V. General terms and conditions

- 5.1 *Engagement.* The Principal hereby engages the Contractor to provide and perform the Services for the purposes of the Project, as described in this Agreement and according to the specifications contained *Annex B: Technical Specification* to this Agreement as well as respective Assignment Orders, on the basis of awarded Assignments, and the Contractor hereby accepts such engagement. The Services shall result in the provision to the Principal of the Temporary Professional Staff for the required duration as identified in each Assignment Order.
- 5.2 *Co-Operation of the Parties.* The Parties shall cooperate with one another to fulfil their respective obligations under this Agreement. Parties shall endeavour to maintain good working relationships among all key personnel engaged toward provision of the Services.
- 5.3 *Statutory Requirements.* By signing this Agreement, the declaration is made by the Contractor that the Contractor is professionally qualified, registered, and licensed to provide the Services in the Republic of Latvia, Republic of Lithuania and the Republic of Estonia. The Contractor also warrants that the employment relationships between the Contractor and its Temporary Professional Staff are fully compliant with the requirements of statutory law in the fields of employment and taxation attributable to such employment relationships.
- 5.4 *Labour safety.* The Parties shall actively co-operate in all labour safety related matters by informing each other about any existing or potential labour safety issue as soon as it is identified and further cooperating in appropriate mitigation measures.
- 5.5 *Communication between the Parties.*
- 5.5.1 Communication under the Agreement (e.g. information, requests, submissions, formal notifications, etc.) must:
- 5.5.1.1 be carried out in English;
- 5.5.1.2 be made in writing (including electronic form);
- 5.5.1.3 be carried out between the authorised persons as specified in Clause 5.5.6 or additional specific contact persons as laid down in the corresponding Assignment Order;
- 5.5.1.4 bear the Agreement's number.
- 5.5.2 Communications by e-mail are deemed made when they are sent by the sending Party and receipt is confirmed by the receiving Party, unless the sending Party receives a message of non-delivery. Sending Party is responsible to get confirmation that a message (with all its contents) sent via e-mail was received.
- 5.5.3 Assignment Orders, notices, declarations and invoices shall be deemed received:
- 5.5.3.1 if delivered by hand, on the first Business Day following the delivery day;
- 5.5.3.2 if sent by post, on the fifth Business Day after the date of posting;
- 5.5.3.3 if sent by e-mail, the same Business Day if sent prior to 17:00 o'clock and the next Business Day if sent after 17:00 o'clock (Latvian time applies).
- 5.5.4 If the final day of a time period referred to in this Agreement is Saturday, Sunday or a legal holiday in the Republic of Latvia, the following Business Day shall be considered the final day of the respective period.
- 5.5.5 The Parties agree that information may be exchanged electronically over the internet.
- 5.5.6 For the purposes of this Agreement:
- 5.5.6.1 The authorised representative of RB Rail for Agreement fulfilment issues and Assignment Order procedures (authorised to issue Requests for Proposal, sign the Deed of Acceptance) is Vija Vītola, Head of HRM & Administration, e-mail: [•].

- 5.6 The authorised representative of the Contractor Partnership consisting of Linum Consult Ltd and Brunel Energy Europe BV for Agreement fulfilment issues and Assignment Order procedures (authorised to respond to Requests for Proposal, sign the Deed of Acceptance) is Francis Gregory Ryan, e-mail: [•].
- 5.7 *Establishment of direct employment relationship.* The Principal and the respective Temporary Professional Staff have the right to establish direct employment relationships during the period of an Assignment. In such circumstances the respective Assignment shall be deemed finished on the date when the direct employment relationship has officially begun. In these cases, the Principal shall pay the Contractor the price for conversion from Temporary Professional Staff to permanent staff of the Principal as indicated in the Contractor's Proposal.

Section VI. Responsibilities of Principal

- 6.1 *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 Services and Assignments, provided that the Principal is in possession of such information.
- 6.2 *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 provision of Services and a particular Assignment and within a reasonable time. The Principal is not limited to provide any answer and information to the Contractor by e-mail.
- 6.3 *Accounting and Auditing Services.* The Principal shall furnish accounting and auditing services as may be necessary for the provision of Services 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.
- 6.4 *Training and equipment.* The Principal provides the Professional Temporary Staff with all necessary information, training and equipment that is required for the execution of the respective Assignment (taking into account the split of responsibilities contained in *Annex B: Technical Specification*) and the Principal shall be responsible for the day-to-day guidance and management of the Professional Temporary Staff as could be expected in an ordinary employment relationship.
- 6.5 *Obligation to ensure a safe work place.* The Principal undertakes to ensure the Professional Temporary Staff with safe and harmless working conditions during the period of execution of the Assignment according to the requirements of statutory laws and regulations.

Section VII. Responsibilities of Contractor

- 7.1 *Standard of Performance.* The Contractor shall perform the Services as expeditiously as is consistent with professional skill and care, orderly progress of the Services and each Assignment, and in accordance with the conditions set forth in *Annex B: Technical Specification*.
- 7.2 *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 Professional Temporary Staff is properly qualified and competent in accordance with the relevant Assignment;
 - (c) at all times during the term of the Services, ascertain and comply with all Applicable Laws and Good Industry Practice of the Republic of Latvia, Republic of Lithuania and the Republic of Estonia;
 - (d) comply, where applicable, with any reasonable requirements of the Principal not otherwise provided for in this Agreement.
- 7.3 *Maintenance of Records.* During the term of the Services and for a period of ten (10) 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 Services have been and are 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.

- 7.4 *Access to Documentation.* At all times during the term of the Services, 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 for a period of 10 (ten) years from the date of expiration or termination of this Agreement. All records forming part of the Documentation shall be available to the Principal's auditor, or expert appointed by the Principal during the period of time specified in accordance with this Clause 7.4.
- 7.5 *Security clearance requirements.* The following security clearance requirements are attributable to Temporary Professional Staff of the Contractor.
- 7.5.1 The Contractor shall not involve in the performance of the Agreement a Temporary Professional Staff convicted of an intentional criminal offense, whose criminal record has been removed or abolished, or of whom there are known facts that cast doubt on his ability to maintain restricted and/or classified information.
- 7.5.2 The Contractor shall submit to the Principal in writing prior to the involvement of any Temporary Professional Staff in the performance of the Agreement the following information of the Temporary Professional Staff: name, surname, personal identification code (or equivalent personal identification information), place of birth, position.
- 7.5.3 The Principal has the right to dismiss from each Request for Proposal and/or Assignment (by ending the respective Assignment with immediate effect) such Temporary Professional Staff non-compliant with the security clearance requirements stipulated in this Clause 7.5 at the Principal's sole discretion on the basis of the Principal's written notice. Parties agree that such Principal's decision is uncontestable.
- 7.5.4 The Contractor undertakes to inform the Temporary Professional Staff involved in the performance of the Agreement about the processing of personal data performed by the Principal when organizing a security compliance check.
- 7.5.5 The Contractor shall take all necessary actions and measures in a timely manner to ensure that a natural person is not involved in the performance of the Agreement or the involvement is immediately terminated if the Temporary Professional Staff does not comply with Clause 7.5. of this Agreement, otherwise creates or may create security risks for the Principal, the security of the Principal's information or operational risks.
- 7.5.6 In any case, the Contractor shall immediately notify the Principal in writing of any situation that has arisen before and during the performance of the Agreement or a specific Assignment, as a result of which there is or may be a risk of involving a non-compliant Temporary Professional Staff and related security risks.
- 7.5.7 The Contractor undertakes to submit to the Principal the necessary certificates from the local authorities in charge of maintaining criminal records in relation to a specific Temporary Professional Staff prior to the commencement of an Assignment if the Principal so demands due to the potentially sensitive nature of a specific Assignment.
- 7.5.8 The Temporary Professional Staff's non-compliance with the security clearance requirements stipulated in this Clause 7.5, the Principal's instructions towards the Contractor regarding these security clearance requirements or other provisions of this Clause 7.5 constitutes a material breach (breach of a material term or condition) of the Agreement and as grounds for the Principal to unilaterally terminate the Agreement by notifying the Contractor in writing 1 (one) business day in advance.
- 7.5.9 The Contractor is obliged to to observe and not contest the Principal's written instructions and decisions in accordance with Clause 7.5. of the Agreement.
- 7.6 *Right to Sub-Contract.* For the avoidance of doubt the requirements of this Clause is only attributable to Approved Sub-Contractors that the Contract may involve in the provision of Services but is not attributable to members of Contractor's Temporary Professional Staff which are not considered as Approved Sub-Contractors of the Contractor in the sense of the Applicable Law.
- 7.6.1 In carrying out the Services, the Contractor may only rely on the services of those Approved Sub-Contractors listed in *Annex D: List of approved Sub-Contractors*, 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 D: List of approved Sub-Contractors*. The Contractor shall have an obligation to notify the Principal in writing of any changes to Sub-Contractor data specified in *Annex D: List of approved Sub-Contractors* occurring during the term of this Agreement and of the required information for any new Sub-Contractors which it may subsequently engage toward provision of the Services.

- 7.6.2 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 indicated in *Annex D: List of approved Sub-Contractors* and involvement of additional Sub-contractors.
- 7.6.3 Review and evaluation of the replacement of Sub-contractors shall be carried out, and the consent or refusal to give consent shall be rendered by the Principal in accordance with Article 62 of the Public Procurement Law of the Republic of Latvia.
- 7.6.4 The Contractor shall replace the Sub-Contractor 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.
- 7.7 *Responsibility for Performance by Sub-Contractors.* 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 shall, for the purposes of this Agreement, be deemed to be the act, failure to act, breach or negligence of the Contractor.
- 7.8 *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 provision of Services and/or the Project. In performing the Services, the Contractor shall take all necessary measures to prevent any situation where the impartial and objective implementation of the Services is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest.
- 7.9 *Attendance of Meetings.* To the extent necessary to ensure smooth and efficient provision of the Services, the Contractor shall, at the Principal's request, hold and/or attend meetings with any persons. The Contractor shall arrange Assignment's communication's planning meetings as described in the particular Assignment Order (if any), at which appropriate personnel of the Contractor and the Principal shall be present. The Contractor shall record all meetings (also online meetings) between Parties and prepare meeting reports within five (5) Business Days after each meeting. All meeting reports shall be harmonized by the respective Principal.
- 7.10 *Compliance with Laws.* The Contractor shall review the Applicable Laws that is applicable to the provision of Services. In carrying out any activities forming part of the Services, the Contractor shall, at all times, ensure compliance with requirements imposed by supra-national and/or governmental authorities having jurisdiction over the Project.
- 7.11 *Information Furnished by Principal.* The Contractor shall be entitled to rely on the accuracy and completeness of 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 Services, Assignments or information.
- 7.12 *Certain Negative Covenants.* In performing the Services, 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;
- (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 Services), 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) Business Days and, upon such payment or discharge, allow the Person to continue performance of the Services;
- (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.

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

- (a) any report, brochure, document or information related to the Services 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 Services are 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 7.13(a)(i) and 7.13(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>.

7.14 *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 status of the Services or an Assignment.
- (b) report on any changes to the Annexes of this Agreement, 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 Parties, and, if the proposed changes are compliant with the Public Procurement Law of the Republic of Latvia.

7.15 *Documentation of Temporary Professional Staff.* The Contractor undertakes to provide the Principal with the required Temporary Professional Staff's documentation that is required to implement an Assignment.

7.16 *General duty of diligence.* The Contractor shall engage and be responsible to maintain a completed verification of Temporary Professional Staff's identities and employment eligibility as per Applicable Law in Latvia, Lithuania and Estonia. The Contractor shall perform reference, background and other checks or screenings, as designated by the Principal, insofar the Applicable Law so allow.

Section VIII. Representations and Warranties

8.1 *Certain Representations and Warranties by Parties.* Each Party represents and warrants to the other Parties, 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.

8.2 *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 Services 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 RB Rail 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 Services 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 Services;
- (d) it will assign competent and duly qualified Professional Temporary Staff to carry out the Services and particular Assignments 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 has not been registered as a VAT payer in the Republic of Latvia;
- (g) it is compliant with all of the requirements of the Contractor's Declaration contained in *Annex F: Declaration of Contractor* and will continue to be compliant with all such requirements during the term of this Agreement;
- (h) 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 United Kingdom"*(the *"Residence Certificate"*) confirmed by Competent Authority of the United Kingdom 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;
- (i) that effective employment agreements have been concluded between the Contractor and Temporary Professional Staff that under this Agreement allow the Contractor to provide Services to the Principal;
- (j) that the Contractor is responsible for the disbursement of salary to the Temporary Professional Staff. The Contractor is solely responsible for all obligations that are related to the adherence to Applicable Laws that are applicable to the Temporary Professional Staff as employees of the Contractor (e.g. including but not limited to the conclusion, execution and termination of employment agreements, management and determination of working hours and annual vacation, deduction or disbursement of all types of benefits, taxes, mandatory payments and other sums, which are related to legal employment relationship).

Section IX. Fee and Payment

9.1 *Fee.*

9.1.1 In consideration of the provision of the Services, the Principal undertakes to pay the Contractor a monthly Fee in the amount set forth in accordance with each Assignment Order (the "Fee"). The Fee includes: (1) the respective Temporary Professional Staff member's daily rate for the time actually worked at the Principal during the previous calendar month; and (2) the respective Temporary Professional Staff member's daily rate multiplied by the Contractor's proposed Administrative Charge as indicated in the Contractor's Proposal with the following formula:

$$\text{Fee} = \text{daily rate} + (\text{daily rate} \times \text{Administrative Charge}).$$

- 9.1.2 The Temporary Professional Staff member's daily rate is a flat rate calculated by the Contractor for the provision of Services for an Assignment. The amount of daily rate is subject to business risk of the Contractor meaning that the Contractor should foresee and take into account the employee's gross salary, supplementary payments deriving from the Labour Law e.g. for night work, overtime, work on public holidays and severance pay, sick leave, vacation etc. if such instances occur.
- 9.1.3 The Fee shall include all Costs and expenses incurred by the Contractor and Approved Sub-Contractors toward performing the particular Assignment. The Fee specified in accordance with this Section IX excludes value added tax that will be charged at the rate applicable in accordance with the Applicable Law at the time of invoicing.
- 9.2 *Calculation and working time schedules.* The monthly Fee for each Assignment is calculated on the basis of the Temporary Professional Staff working time schedules that have been approved by the Principal and submitted to the Contractor no later than on the fifth working day of the month for the previous calendar month.
- 9.3 *Invoicing.* According to the received working time schedule(s) 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 with full breakdown of the contents of the Fee. 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 Principal to this effect shall be given by the Principal to the Contractor not later than on the due date for the respective payment under this Clause 9.3. 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 Services that have not been performed in accordance with this Agreement.
- 9.4 *Payment.* Subject to the provisions of Clause 9.3, 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 due 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 on which the Principal received a properly prepared invoice in relation to a signed Assignment Order. Should the Principal receive an improperly prepared invoice the Principal shall notify the Contractor in writing.
- 9.5 *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.
- 9.6 *Invoice.* The Contractor's invoices shall contain the following Contractor's details and details about the Agreement:

Contractor	Linum Consult Ltd
Registration No	08033643
VAT payer's No or indication that the Contractor is not a VAT payer	151689686
The Principal's VAT No	151689686
Legal address, city, Zip code, country	209 Liverpool Road, Southport, Merseyside, England PR8 4PA
Legal name of Bank	[•]
Bank SWIFT Code	[•]
Bank Account No IBAN	[•]
Subject:	For provided services according to CEF Contract No: CEF 1: INEA/CEF/TRAN/M2014/1045990

	<p>PISM Activity No 23 (A23);</p> <p>CEF 2: INEA/CEF/TRANS/M2015/1129482</p> <p>PISM Activity No 18 (B18);</p> <p>CEF 3: INEA/CEF/TRANS/M2016/1360716</p> <p>PISM Activity No 9 (C09);</p> <p>CEF 6s: INEA/CEF/TRAN/M2019/2098304</p> <p>PISM Activity No 9 (D09);</p> <p>CEF 6w: INEA/CEF/TRAN/M2019/2098073</p> <p>PISM Activity No 11 (E11);</p> <p>and future CEF Agreements.</p> <p>Contract Manager: Vija Vītola, Head of HRM & Administration.</p>
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The Contractor shall send the invoice to the Principal electronically to the following e-mail addresses: invoices@railbaltica.org. The Principal shall review the invoice to verify whether it contains all necessary requisites.

Section X. Commencement and acceptance of Services

- 10.1 *Commencement of Services.* The Contractor shall not commence provision of the Services until a particular Assignment Order has been confirmed by the Contractor and the Principal in accordance with the provisions of this Agreement.
- 10.2 *Completion of an Assignment or part of the Assignment.* Delivery of each Assignment or part of an Assignment occurs on a monthly basis by the Principal accepting the respective working time schedules for the previous calendar month in accordance with Clause 9.2. throughout the duration of the respective Assignment
- 10.3 *Final Acceptance of an Assignment.* Final acceptance of the Assignment shall occur once the final term of the respective Assignment as indicated in the Assignment Order has been met. The date when Assignment finishes and the Parties sign a Deed of Acceptance in relation to the particular Assignment (accompanied by all working time schedules) shall constitute the "Final Assignment Completion Date" with respect to the particular Assignment.

Section XI. Intellectual Property Rights

- 11.1 *Proprietary Rights.* Contractor ensures that the necessary agreements are in place with the Temporary Professional Staff so that the latter transfers author's economic rights to Principal in relation to any work that Temporary Professional Staff may create during performance of an Assignment.
- 11.2 *Title to Intellectual Property.* Contractor ensures that the necessary agreements are in place with the Temporary Professional Staff so that Principal shall have title to any invention, trade mark, design or any other object of intellectual property rights that Temporary Professional Staff may create in the performance of an Assignment. Principal may register such invention, trade mark, design and other items of intellectual property on its own name in accordance with the terms and conditions of the Applicable Law.

Section XII. Termination and suspension

- 12.1 *Termination for Material Breach or Bankruptcy.* Subject to the provisions of Clause 12.2, 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 Section XII an event of material breach shall include any of the following:
- 12.1.1 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 Assignment or an Assignment valued at least EUR 5,000;
 - 12.1.2 failure by the Principal to make any payment to the Contractor in accordance with this Agreement within at least fifteen (15) Business Days from the date of payment falling due;
 - 12.1.3 any of the representations or warranties given by either Party under Section VIII or any of the representations or warranties given by the Contractor under Clause 8.2 proving to be untrue.
- 12.2 *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.
- 12.3 *Right to Terminate Immediately.*
- 12.3.1 Notwithstanding anything to the contrary contained in this Agreement, a Party may terminate this Agreement immediately upon giving the Parties a written notice of termination explaining, in reasonable detail, the reason for termination upon occurrence of any of the following:
 - (a) breach by a Party of Clause 19.2;
 - (b) an event of Force Majeure has been continuing during more than sixty (60) days;
 - (c) a 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 XIV. Confidentiality*;
 - (e) a Party is unable to pay its debts and has presented a petition for voluntary bankruptcy;
 - (f) a Party had a bankruptcy order issued against it;
 - (g) liquidation, insolvency or legal protection proceedings have been initiated with respect to a Party or a Party is declared insolvent;
 - (h) the occurrence of any event analogous to the events enumerated under Clauses 12.3.1 (e) – (g) under the law of any jurisdiction to which a Party's assets and undertaking are subject.
 - 12.3.2 *Principal's Right to Terminate Immediately.* The Principal's may terminate this Agreement immediately upon giving the Contractor a written notice of termination explaining, in reasonable detail, the reason for termination, if:
 - (a) CEF Co-financing for further financing of the Services are not available to the Principal fully or partly;
 - (b) breach by the Contractor any of the undertakings under Clause 7.5;

In case of Clause 12.3.2 (a); (b), the Principal shall pay the Contractor the fees in respect of the Services provided under this Agreement up to the date of the notification of the termination of this Agreement and the Principal is not obliged to pay contractual or any other penalty or Damages to the Contractor.
 - (c) 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.

- 12.4 *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 Article 64 of the Public Procurement Law. In such a case, the Principal shall pay the Contractor the fees in respect of the Services provided under this Agreement up to the date of the notification of the termination of this Agreement and the Principal is not obliged to pay contractual or any other penalty or Damages to the Contractor.
- 12.5 *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 7.3, 7.4, 13, 13.2, 13.3, 19.2, and *Section XV. Confidentiality, Section XVI. Right to Audit, Section XV. On-the-spot-visits and Section XVIII. 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 12.5(b).
- 12.6 *Principal's Obligation to Pay.* Except in the event of termination by the Principal occurring as a result of violation by the Contractor of Clause 19.2, or termination by the Principal according to Clause 12.3.2 or 12.4 in the event this Agreement is terminated for any reason prior to completion of an Assignment, 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 XIV. 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.
- 12.7 *No Obligation to Pay Costs Incurred Prior to Acceptance.* Notwithstanding anything set forth in this Agreement to the contrary including, without limitation, under Clause 12.6, the Principal shall have no obligation to pay any of the Costs incurred by the Contractor with respect to any particular Assignment (or part of any particular Assignment) not deemed as having been accepted by the Principal in accordance with Clauses 10.2. and 10.3.
- 12.8 *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 XIII. Liability

- 13.1 *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 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 compensate Damages incurred by the Principal arising out of or in connection with this Agreement and liable to pay the contractual penalty set forth in accordance with Clause 13.2 if a breach of payment obligations is established against the Principal.
- 13.2 *Contractual Penalty.* In the event of failure by the Principal to pay any amount in accordance with Clause 9, the Principal shall be liable to pay the Contractor a penalty of zero point zero 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 13.2 shall not exceed ten percent (10%) of the total amount remaining unpaid under the relevant invoice.
- 13.3 *Compensation for Damages.* Notwithstanding of and without prejudice to any contractual penalty payable in accordance with Clause 13.2 and subject to the provisions of Clause 1.1, 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.

13.4 *Attribution of Damages.* Any Damages suffered by either Party shall, for the purposes of Clause 13.3, be reduced to the extent that the Damages are caused by or contributed to by the another Party's own negligence or breach of its obligations under this Agreement.

13.5 *Liability of Temporary Professional Staff.* During the period of an Assignment the respective Temporary Professional Staff member shall be liable to the Principal (and vice-versa) in accordance with Applicable Law.

13.6 *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 Services or particular Assignment or the Project) or any indirect or consequential loss arising out of or in connection with this Agreement.

Section XIV. Force Majeure

14.1 *Effects of Force Majeure.* Subject to the requirements set forth in accordance with Clauses 14.2 and 14.3, 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.

14.2 *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 14.2(a).

14.3 *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) Business 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 14.2(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.

14.4 *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).

14.5 *Mitigation of Effects of Force Majeure.* As soon as practicable after the notification specified pursuant to Clause 14.3, the Parties shall use reasonable endeavours to agree appropriate terms or modifications to the Assignment to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Agreement.

Section XV. Confidentiality

- 15.1 *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.
- 15.2 *Undertakings with Respect to Confidential Information.* Subject to Section XV and Clause 15.3, 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 Temporary Professional Staff, affiliates 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.
- 15.3 *Permitted Disclosure.* Notwithstanding anything to the contrary set forth in accordance with Section XV and Clause 15.2, 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 XVII. 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.
- 15.4 *Obligation of Confidentiality Pertinent to Recipients of Confidential Information.* Whenever disclosure is permitted to be made pursuant to Clauses 15.3(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.
- 15.5 *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.
- 15.6 *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.

- 15.7 *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 Services.
- 15.8 *Remedies.* The Parties acknowledge and agree that a breach of the provisions of this *Section XV. Confidentiality* may cause the owner of Confidential Information to suffer Damages.
- 15.9 *Confidentiality constraints of Temporary Professional Staff.* The Parties agree that prior to the commencement of each Assignment the Parties and the respective Temporary Professional Staff shall sign a tripartite Mutual agreement on the nondisclosure of Confidential Information in the form that will be enclosed to the respective Request for Proposal. The contents of this Mutual agreement on the nondisclosure of Confidential Information will be based on the main principles of this *Section XV. Confidentiality*, with additional elaboration of specifics of each case.

Section XVI. Right to Audit

- 16.1 *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 Services; 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 Services.
- 16.2 *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 XVI. 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.
- 16.3 *Survival of Termination.* The rights and obligations of the Principal set forth in accordance with this *Section XVI. Right to Audit* shall survive expiration or termination of this Agreement for any reason and shall continue to apply during ten (10) years following expiration or termination of this Agreement for any reason whatsoever.

Section XVII. On-the-spot-visits

- 17.1 *Right to perform On-the-spot visits.* By submitting a written notice five (5) Business 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.
- 17.2 *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.
- 17.3 *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.
- 17.4 *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 XVIII. Governing Law and Resolution of Disputes

- 18.1 *Governing Law.* This Agreement shall be governed by and construed in accordance with law of the Republic of Latvia.
- 18.2 *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.
- 18.3 *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 XIX. Miscellaneous provisions

- 19.1 *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.
- 19.2 *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 12.2, 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.
- 19.3 *Data Protection.*
- 19.3.1 For the purpose of execution of this Agreement, the Parties might transfer to each other certain personal data, such as data on employees of the Parties, Temporary Professional Staff, data on suppliers, data on potential candidates, Project stakeholders and their employees etc. The Parties acknowledge that for the purpose of the Agreement each of the Parties shall act as a controller.
 - 19.3.2 The Party shall transfer the personal data to the other Parties and such other Parties shall process the personal data only for the purposes of execution of the Agreement and other such purposes as required by Applicable laws.
 - 19.3.3 The Parties agree that except where the Party has a separate legal basis for processing the personal data referred to in the Applicable laws governing the protection of personal data, the Party shall not process the personal data for any other purpose.
 - 19.3.4 Besides other obligations provided for in the Agreement, each of the Parties undertakes:
 - 19.3.4.1 to process the personal data to the minimum extent necessary;
 - 19.3.4.2 not to infringe any rights of the data subjects;

19.3.4.3 to implement and apply proper organizational and technical measures ensuring the compliance with the requirements of the law;

19.3.4.4 to ensure the compliance with other requirements of the statutory law governing the protection of personal data.

- 19.4 *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 or under Clause 5.5. Delivery can be made by hand, by post, or by e-mail.
- 19.5 *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.
- 19.6 *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.
- 19.7 *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 Article 61 of the Public Procurement Law of the Republic of Latvia.
- 19.8 *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.
- 19.9 *Execution.* This Agreement is executed in two (2) originals, one for each Party.

Signed by:

Signed by:

For and on behalf of the Principal:

Agnis Driksna,
Chairman of the Management Board

Date of signature:

Bank account details of the Principal:
[•]

Signed by:

For and on behalf of the Contractor:

Francis Gregory Ryan,
Co – Founder & Director

Date of signature:

Bank account details of the Contractor:
[•]

Annex A: Definitions and common terms

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

- (a) "Administrative Charge", the charge of the Contractor that is a fixed part (multiplier set out in a percentage value) of the Fee and is laid down in the Contractor's Proposal.
- (b) "Agreement", this Agreement, together with all Annexes thereto.
- (c) "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 also include any legislative act or directive relevant to public procurement.
- (d) "Approved Sub-Contractor", any person or organisation listed pursuant to *Annex D: List of approved Sub-Contractors*, which is in a contractual relationship with the Contractor to provide a part of the Services.
- (e) "Assignment", means the specific instance of Services that is procured by the Principal in accordance with this Agreement within the scope of the framework.
- (f) "Assignment Order", means the agreement between the Principal and the Contractor for the implementation of an Assignment.
- (g) "Confidential Information", as defined in accordance with Section XV of the Agreement.
- (h) "Contractor", the partnership consisting of Linum Consult Ltd and Brunel Energy Europe BV, as further specified in the preamble of this Agreement, which is employed by the Principal as an independent professional contractor to perform the Services, and legal successors to the Principal and permitted assignees of the Principal.
- (i) "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 Services, 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 Services or relating to the Services;
 - (iii) salaries of the Contractor's employees for the time that they spend in connection with the Services;
 - (iv) payments to sub-contractors for relating to the Services;
 - (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 Services;
 - (vii) payments for rental charges for machinery, equipment, facilities and tools used in connection with the Services, 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 Services;
 - (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 Services, 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 Services;
 - (xii) costs of any data processing services used in connection with the performance of the Services required under this Agreement; and

- (xiii) losses and expenses, not compensated by insurance, sustained by the Contractor in connection with the Services under this Agreement (if applicable), provided they resulted from causes other than the fault or neglect of the Contractor.
- (j) "Corrective Period", as defined in accordance with Clause 12.2.
- (k) "Damages", any cost, claim, damage, demand, loss, expense or liability incurred by the relevant Party or Person.
- (l) "Deed of Acceptance", as defined in accordance with Clause 10.3 and in the form as provided in Annex E: Form of the Deed of Acceptance.
- (m) "Documentation", all records, correspondence, and files of the Contractor, its Temporary Professional Staff employees, engineers, and consultants pertaining to the Project.
- (n) "Effective Date", the date when all of the Parties have signed the Agreement.
- (o) "EUR" and "euro", the official currency of the eurozone, officially known as the euro area.
- (p) "Fee", as specified in accordance with Clause 9.1.
- (q) "Final Assignment Completion Date", as defined in accordance with Clause 10.3.
- (r) "Force Majeure Event", any of the following events:
 - (xiv) an act of the public enemy or war (declared or undeclared), threat of war, revolution, riot, insurrection, civil commotion, demonstration or sabotage;
 - (xv) an act of vandalism or accidental damage or destruction of machinery, equipment, track or other infrastructure;
 - (xvi) 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);
 - (xvii) nuclear, chemical or biological contamination;
 - (xviii) pressure waves caused by devices travelling at supersonic speeds;
 - (xix) discovery of fossils, antiquities or unexploded bombs; and/or
 - (xx) strike, lockout or other industrial action other than involving the Contractor or the Principal.
- (s) "Framework Agreements", this Agreement as well as the other identical framework agreements concluded with the Other Contractor based on the results of the Procurement Procedure.
- (t) "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 Services of a similar size, nature, scope, type and complexity, complying with Applicable Law, applicable Standards and published codes of practice.
- (u) "Intellectual Property", all intellectual property rights in any part of the world in respect of any documentation or information provided by the Contractor and its Temporary Professional Staff 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.
- (v) "Other Contractor", the company EWI Recruitment Limited as further specified in the preamble of this Agreement, who is also engaged by the Principal in the provision of Services as a result of the Public Procurement.
- (w) "Party" and "Parties", the Principal and the Contractor and include their respective successors in title, permitted assigns and permitted transferees.
- (x) "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.

- (y) "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).
- (z) "Principal", the company RB Rail AS as further specified in the preamble of this Agreement, which employ the services of the Contractor, and legal successors to the Contractor and permitted assignees of the Contractor.
- (aa) "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.
- (bb) "Residence Certificate", a certificate mentioned in Clause 8.2(h).
- (cc) "Request for Proposal", as described in Clause 4.2.
- (dd) "Standards", CEF Standards and Grant Agreement Standards.
- (ee) "Services", the supply and posting of Temporary Professional Staff to the Principal that is to be provided on an on-demand basis as specified in *Annex B: Technical Specification*.
- (ff) "Temporary Professional Staff", the employees of the Contractor and Other Contractors who will be posted to the Principal in accordance with concluded Assignment Orders.
- (gg) "VAT", value added tax.
- (hh) "Business Day", as specified in accordance with Clause 1.2.9 of this Agreement.

Annex B: Technical Specification

TECHNICAL SPECIFICATION FOR THE OPEN COMPETITION

"Supply of temporary professional staff for RB Rail AS"

(ID NO RBR 2020/11)



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

Riga

2020

1. INTRODUCTION

This Terms of Reference identifies the purpose, deliverables and performance requirements for implementation of the services associated with the source and supply of Temporary Professional Staff.

Temporary Professional Staff are individuals who are not engaged as an employee or on the payroll of the Principal and who, subject to the approval of the Principal, are seconded by the Contractor for placement on assignment with the Principal.

This Supply of Temporary Professional Staff Terms of Reference sets forth the requirements that the Contractor will meet in providing the services.

2. BACKGROUND

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

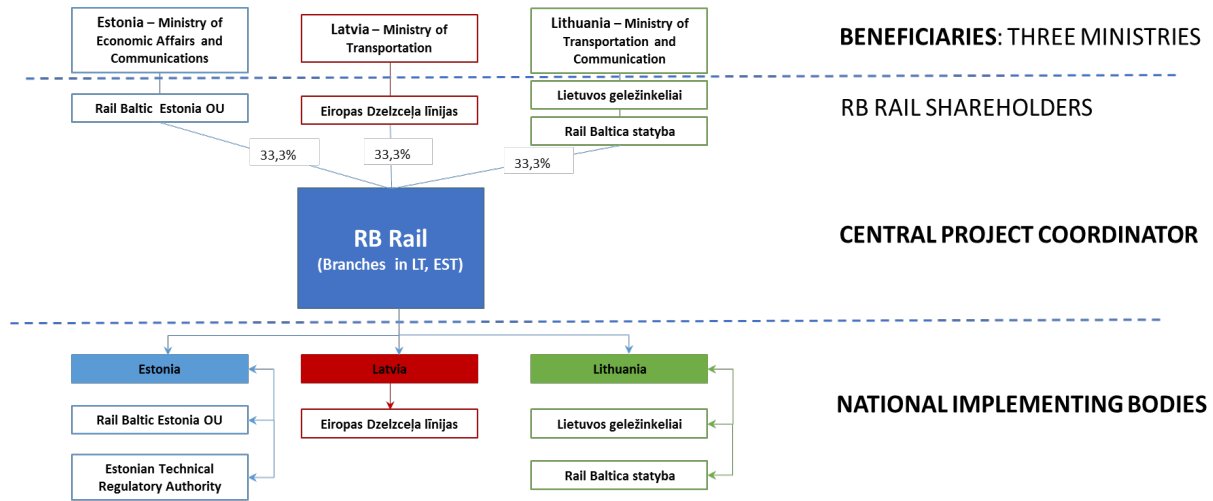
The ambitions of the Rail Baltica Global project (Global Project) are:

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

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

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

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



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

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

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

In order to deliver this major, complex project the Client needs to build an organisation of experienced professional staff. In general, this will be achieved through the recruitment of permanent staff both locally within the Baltics, and internationally. However, there will be occasions where it is not possible to recruit staff with the required expertise in the timeframe needed for the project. In situations it is planned to recruit temporary staff to work within the clients organisation on a short term basis to ensure the continues efficient delivery of the project. Short term staff may also be required to provide additional resourcing during peaks in the project delivery. In these situations, it would not be economic to recruit permanent staff, so short-term staff will be utilised.

The duration of the short-term assignments will vary on a case by case basis but is expected to be between 3 months and 12 months. The assignment durations need to be flexible and will be adjusted based on the needs of the project. For example, if a permanent person is recruited for a role that is being provided Temporary Professional Staff then duration of the assignment for the Temporary Professional staff may be reduced.

3. OVERVIEW OF THE SERVICES

The Contractor will provide a comprehensive, efficient and cost-effective solution to manage and deliver Temporary Professional Staff, for roles identified by the Principal, by sourcing and supplying Temporary

Professional Staff; the administration of Temporary Professional Staff's assignments; payments to Temporary Professional Staff; and ensuring all local regulations and laws in regard to eligibility to work in the region are met.

4. SCOPE OF SERVICES

The Services may cover any and all professional staff necessary for the successful delivery of the project. This may include, but is not limited to the following:

Discipline	Roles
Engineering	Track Engineer; Structures Engineer; Building Engineer; Geotechnical Engineer; Signaling Engineer; Electrification Engineer; Roads Engineer; RAMS Engineers; Systems Assurance Engineer; Requirement engineer; Systems integration engineer; Software Engineer; Data Analyst.
Project Management	Project Manager; Deputy Project Manager; Contracts Manager; Deputy Contracts manager.
Project Controls	Project controls manager; Planning Engineer; Cost Manager; Risk manager; Change Manager; Reporting Manager; Stakeholder Manager.
Health, safety quality and Environment	Health and Safety Manager;

	Quality Manager; Quality Auditor; Environmental Manager.
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5. DESCRIPTION OF SERVICES

The Contractor shall directly provide the Principal with Temporary Professional Staff. Unless otherwise agreed, all services performed by Temporary Professional Staff shall be performed at the Principal business premises or on project sites in the Baltic states, under the Principal supervision, and Temporary Professional Staff shall perform the tasks assigned by the Contractor.

Temporary professional staff shall act as if they are members of the Principal staff, and work in accordance with the policies, procedures and regulations of the Principal.

The Principal shall provide to the Contractor details of the role which the Principal seeks to fill including the following:

- a) the details of the role to be performed and associated project details as required
- b) the experience, training, qualifications, authorisations and regulatory requirements which the principal considers necessary or which are required by law or any professional body for the Temporary Professional Staff to possess in order to work the position;
- c) the date the Principal requires the Temporary Professional Staff to commence the assignment;
- d) the duration or likely duration of the assignment;
- e) the location and hours of work;
- f) any risks to health or safety known to the principal and what steps the Principal has taken to prevent or control such risks; and
- g) the minimum/ maximum rate of pay, expenses and any other benefits that would be offered.

6. PREQUALIFICATION OF TEMPORARY PROFESSIONAL STAFF

The Contractor shall engage and be responsible to maintain a completed verification of Temporary Professional Staff identity and employment eligibility as applicable by law in Latvia, Lithuania and Estonia. The Contractor shall perform reference, background and other checks or screenings, as designated by the Client and subject to the applicable law of the jurisdiction in which Services are to be provided.

7. SECURITY CLEARANCE

The Temporary Staff shall meet to security clearance requirements specified by the principal in Assignment Order. The Principal has the right to perform a security compliance check of the Temporary Staff before it is allowed to perform their work tasks. The Principal have a right to demand dismissal of Temporary Staff non-compliance with the security clearance requirements stipulated in Assignment Order. Such Principals decision is un-contestable.

8. SUPPLIER DELIVERABLES

The Contractor shall be responsible for the engagement, compensation, discipline, and removing or reassigning Temporary Professional Staff assigned to perform work for the Principal from any project or assignment with the Principal. Prior to placement of any Temporary Professional Staff on assignment with the Principal, the Supplier shall require each such Temporary Professional Staff to execute any pre-engagement documents required by the Principal.

Temporary Professional Staff may need to have access to areas which are restricted to certain Principal employees, customers, visitors and agencies, provided Temporary Professional Staff have met the requirements as set forth by the Principal in accordance with the Principal standards for access to such areas. The Principal agrees that Temporary Professional Staff shall not be allowed onto Principal property or into any of Principal facilities unless prior approval is given by the Principal.

The Contractor shall provide all required administration and control in regard to compliance of a Temporary Professional Staff to undertake assignments for the Principal in country of engagement/service provision.

The split of responsibilities between the Principal and the Contractor is summarized in the following table:

Service Provision	Description of deliverable
Administration	Contractor to administer all requirements in support of source and supply of Temporary Professional Staff to meet the Principal requirements as specified.
Immigration:- Visa(s); Work Permit(s)	Contractor to obtain all Work permits and visas necessary as required.
Background Checks	Contractor to carry out all required background checks prior to submission of candidates for consideration.
Mobilisation & Demobilisation	Contractor responsible for administration of all requirements associated with both the mobilisation and demobilisation of Temporary Professional Staff.
Taxes	Contractor to Process all documentation/administration in regard to ensuring local Tax compliance.
Accommodation	Contractor to arrange accommodation where required.
Transport	If needed to carry out the Services, then will be provided by the Principal.
Personal Protective Equipment (work boots, safety vests, safety helmets and eyewear, gloves)	The Principal shall advise of all PPE requirements and confirm with the Contractor items to be provided by the Principal and those to be provided by the Supplier per role.
Orientation	The Contractor shall provide local orientation to Temporary Professional Staff on arrival in-country and in preparation for job role to include geographic, health & safety and Principal policies.
Welfare	Contractor responsible for ongoing welfare support to Temporary Professional Staff.

9. TERMINATION OF TEMPORARY PROFESSIONAL STAFF

Irrespective of any indicated duration of any assignment for Temporary Professional Staff, the Principal may choose, at their absolute discretion, to terminate and assignment. The Principal is not obliged to give the Contractor any reason or justification for the termination of the assignment.

The Principal shall give the Contractor one months notice of the termination of the assignment. The Contractor will not be entitled to any additional compensation in the case where an assignment is terminated earlier than anticipated.

Upon completion or termination of any assignment all property of the Principal shall be returned to the Principal.

Annex C: Draft Assignment Order

ASSIGNMENT ORDER NO. [●]

Date [●]

FOR THE SUPPLY OF TEMPORARY PROFESSIONAL STAFF

This Assignment Order has been entered into pursuant to the Framework Agreement No [●] for the supply of temporary professional staff

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 Management Board Member [●] acting on the basis of the Regulations on Representation Rights dated 20 July 2020, on the one side, and

[●], a [●] company organized and existing under [●] law, registration number with [●], having its registered address at [●] (the "Contractor"), represented by [●][●] acting on the basis of [●] on the other side

for providing of the Assignment Order by the Contractor to the Principal on the following conditions:

1. Name(s) of the Temporary Professional Staff to implement Assignment Order: [●]
2. Description of the Assignment Order and the desired result: [●].
3. Commencement date and term of Assignment;
4. Location of execution of Assignment;
5. Contact person(s) for the Principal: [●].
6. Contact person(s) for the Contractor: [●].
7. Daily rate of the Temporary Professional Staff: [●].
8. Payment: According to the Framework Agreement No [●] for the supply of temporary professional staff.
9. [additional information as required]
10. Governance: This Assignment Order supplements, forms part of and is subject to the Framework Agreement No [●] for the for the supply of temporary professional staff. All provisions contained in the Agreement thereof govern this Assignment Order. In the event of any inconsistency between the provisions of the Framework Agreement No [●] for the supply of temporary professional staff and this Assignment Order, this Assignment Order shall prevail.
11. Other terms: [●].

Principal

Contractor

Annex D: List of approved Sub-Contractors

[None]

Annex E: Form of the Deed of Acceptance

No [INSERT NUMBER]

Date: [INSERT DATE IN THE FORM OF 1 January 2021]

Location: [INSERT LOCATION]

For: **RB Rail AS**, registration number 40103845025, legal address: Krišjāņa Valdemāra iela 8-7, Rīga, LV-1010, Latvia (the "Principal")

This Deed of Acceptance is issued to the Principal by [•] [INSERT NAME, REGISTRATION NUMBER INSERT REGISTRATION NUMBER, LEGAL ADDRESS] (the "Contractor"), represented by [INSERT NAME OF REPRESENTATIVE ON THE BASIS OF INSERT BASIS OF REPRESENTATION].

Whereas:

- (A) the Principal and the Contractor have entered into the Assignment Order No. [•];
- (B) the Assignment have been fully completed by the Temporary Professional Staff of the Contractor;
- (C) as stipulated by Clause 10.3 of the Agreement, completion of a Assignment shall be evidenced by means of the Contractor issuing a signed Deed of Acceptance;

The Contractor hereby confirms that the Assignment has been duly completed on [INSERT DATE IN THE FORM OF 1 January 2020], as specified in accordance with the Assignment Order No. [•].

By signing this Deed of Acceptance, the Principal confirms its satisfaction with the result of the Assignment completed, and the Principal accepts the Assignment in its entirety. Additionally, the Principal certifies that all of the necessary authorisations for the acceptance of the Assignment have been duly received.

Signatures:

For and on behalf of the Principal

[•]

For and on behalf of the Contractor

[•]

Annex F: Declaration of Contractor

I, the undersigned duly authorised representative, on behalf of the partnership consisting of Linum Consult Ltd and Brunel Energy Europe BV 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.

Francis Gregory Ryan, Co-Founder & Director

Linum Consult Ltd.

Date of signature:

Place:

Annex G: Contractor's Proposal

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