

AGREEMENT FOR THE ESTABLISHMENT OF RAIL BALTICA PRIMARY CP0 GEODETIC AND LEVELLING NETWORK BENCHMARKS IN THE TERRITORY OF ESTONIA

between

RB Rail AS

and

Osaühing Rail Baltic Estonia

and

SIA "ĢEODĒZISTIS"

RB133-RBR-AGR-Z-00003

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Agreement For The Establishment Of Rail Baltica Primary Cp0 Geodetic And Levelling Network Benchmarks In The Territory Of Estonia

This agreement for establishment of Rail Baltica primary CP0 geodetic and levelling network benchmarks (hereinafter – “RB Geodetic Reference Benchmarks (CP0)”), together with all Annexes thereto (the “Agreement”), is entered into in Riga, on the date indicated on the timestamp of last signature of the document (the “Effective Date”) by and between:

RB Rail AS, a joint stock company registered in the Commercial Register of the Republic of Latvia with the Registration No 40103845025, registered address at Satekles iela 2B, Riga, LV-1050, Latvia (the “Principal”), represented by [...],

and

Osaühing Rail Baltic Estonia, a limited liability company registered in the Estonian Commercial Register with the Registration No 12734109, registered address at Veskiposti tn 2/1, 10138, Estonia (the “Infrastructure Manager”) represented by [...]

on the one hand

SIA “**ĢEODĒZISTIS**”, a limited liability company registered in the Commercial Register of the Republic of Latvia with the Registration No: 41203006878, registered address at Vasarnīcu iela 16, Ventspils, LV-3601, Latvia (the “Contractor”), represented by [...], on the other hand,

WHEREAS:

- (A) this Agreement is entered into under the Project, which includes all activities organised and supervised by the Principal and undertaken by the Implementing Body of the Republic of Estonia (“the Infrastructure Manager”) in order to build, render operational and commercialise the Rail Baltica railway – a new fast conventional double track electrified railway line according to TSI INF P2-F1 criteria and European standard gauge (1435mm) on the route from Tallinn through, the territory of Latvia to Lithuanian-Polish border, with the connection of Kaunas – Vilnius, and related railway infrastructure in accordance with the agreed route, technical parameters and Time Schedule;
- (B) the Principal by acting as a Central Purchasing Body in accordance with the Clause 3.2.2 of the Agreement on Contracting Scheme for the Rail Baltic / Rail Baltica, in effect as of 30 September 2016 has organised procurement procedure THE ESTABLISHMENT OF RAIL BALTICA PRIMARY CP0 GEODETIC AND LEVELLING NETWORK BENCHMARKS IN THE TERRITORY OF [ESTONIA / LATVIA / LITHUANIA] (identification No RBR 2025/8) (“the Procurement Procedure”) whereby the Contractor’s tender proposal (“the Contractor’s Proposal”) was selected as the winning bid for LOT No 1 in respect of the territory of the Republic of Estonia, and the Infrastructure Manager shall assume the payment obligations under this Agreement, as well as shall ultimately acquire the proprietary rights with respect to the New Benchmarks;
- (C) the completion of this Agreement together with the similar Agreements for the other two LOTs, i.e. – LOT No 2 with respect to the territory of the Republic of Latvia and LOT No 3 with respect to the territory of the Republic of Lithuania LOT No 3 under the Procurement Procedure shall result in establishment of RB Geodetic Reference Benchmarks (CP0) for all the railway route from Tallinn through Pärnu, the territory of Latvia, Panevėžys until Kaunas;
- (D) this Agreement is co-financed from the Connecting Europe Facility (CEF) and further grant and finance agreements (hereinafter also referred to as “the Grant”).

1. Definitions and Interpretation

- 1.1. *Definitions.* In this Agreement, unless the context requires otherwise, all definitions shall have the meanings as attached 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. Unless expressly stated to the contrary, any reference in this Agreement to the right of consent, approval or agreement shall be construed such that the relevant consent, approval or agreement shall not be unreasonably delayed or withheld. The Parties agree and acknowledge as follows:
- (i) neither Party shall be required to seek or apply for any consent, approval or agreement by any Person which would place the respective Party in breach of the Applicable Law or any Good Industry Practice; and
 - (ii) nothing in this Agreement shall require the Principal to give or procure the giving of any consent or approval which would be contrary to the protection, safety and efficient operation of the Railway and the Project.
- 1.2.5. A reference to “writing” shall include an e-mail transmission.
- 1.2.6. The words “include” and “including” are to be construed without limitation.
- 1.2.7. Unless indicated otherwise, all references to “days” shall mean calendar days.
- 1.2.8. The words in this Agreement shall bear their natural meaning, except for any definitions in accordance with Annex A: Definitions and common terms.
- 1.3. **Order of Precedence.** In the event of any discrepancy or inconsistency between the documents forming part of this Agreement, the following order of precedence shall apply:
- (a) This Agreement document;
 - (b) Explanations (clarifications) of the procurement documentation;
 - (c) Definitions and Common Terms (Annex A);
 - (d) Procurement documents with the annexes (including Technical specifications (Annex B));
 - (e) Schedule of Services (Annex C);
 - (f) Deed of Acceptance (Annex D);
 - (g) Construction Health and Safety Standard in Rail Baltica Global Project (Annex E)
 - (h) General Environmental Requirements (Annex F)
 - (i) Acknowledgement on compliance with the Construction Health and Safety Standard in Rail Baltica Global Project and General Environmental Requirements (Annex G);
 - (j) Sample of Performance Bond (Annex H)
 - (k) Approved Sub-Contractors and Staff (Annex I)
 - (l) Clarifications of the Contractor's Proposal (Annex J);
 - (m) Contractor's Proposal (Annex K);
 - (n) Representatives (Annex L);
 - (o) Any other Annexes to the Agreement, if any.

2. General Terms and Conditions

- 2.1. **Engagement.** The Principal hereby engages the Contractor to provide and perform the multi-phase geodetic activities for the purposes of the Project, as further detailed under Clause 2.2 (Scope of Services) and according to the specification as per

- 2.2. *Annex B: Technical Specification* to this Agreement, and the Contractor hereby accepts such engagement, which shall include also any auxiliary and preparatory services and Works as may be reasonably required to complete the engagement (“the Services”).
- 2.3. *Scope of the Services*. The Services shall include all activities and Works, as well as any auxiliary and/or temporary activities required to complete and deliver the final Deliverable (Final Report), including those not explicitly listed in the Agreement and *Annex B: Technical Specification* required for due performance of the Agreement, and provision of the Deliverables in accordance with the terms and conditions of the Agreement. When achievement of the above results is not possible without performance of a measure not explicitly listed in the Agreement, then performance of such a measure is considered as a contractual obligation of the Contractor according to the Agreement without any additional payment obligations by the Principal. In any case the Services shall include, but are not limited to:
- 2.3.1. Preparatory and auxiliary Services and Works, including obtaining the required permits and/or approvals by the Affected Parties for installation of new Benchmarks or maintenance of existing Benchmarks and delivery of prepared examples of sketches, photographs and panoramas to the Principal and Infrastructure Manager (“**Preparatory Phase**”).
 - 2.3.2. Production of New Benchmarks and external elements of Benchmarks (“**Phase 1**”).
 - 2.3.3. Maintenance of existing Benchmarks, collection of in situ information describing the locations of the Benchmarks and determination of coordinates and ellipsoidal heights of maintained Benchmarks (“**Phase 2**”).
 - 2.3.4. Installation of New Benchmarks, collection of in situ information describing the locations of the Benchmarks and determination of coordinates and ellipsoidal heights of installed Benchmarks (“**Phase 3**”).
 - 2.3.5. Provision to the Principal of the final Deliverable – the Final Report describing the works performed as per the Scope of the Services and as approved by the Principal and the Infrastructure Manager in accordance with the terms of this Agreement (“**Phase 4**”).
 - 2.3.6. liaison and co-ordination of Works within the Scope of the Agreement with the Affected Parties, whose rights may be affected by the Services.
 - 2.3.7. Obtaining written consents by the owners of the properties and any other Affected Parties, or informing of such owners or Affected Parties within the area of performance of the Works, where applicable, including as required by the Applicable Law.
 - 2.3.8. Providing the advice on potential measures to be taken to and receipt of approvals by the Principal to the extent required for the performance of the Services.
 - 2.3.9. Taking any other measures required for the provision of the Services, and performance of the Agreement with due care and professional skills as required in order to achieve the best cost-efficient results and to deliver the Final Report.
- 2.4. *Co-operation between the Parties*. The Parties shall co-operate with one another to fulfil their respective obligations under this Agreement. The Parties shall endeavour to maintain good working relationships among all key personnel engaged in the provision of the Services, as well as with the Affected Parties. All communication, including the correspondence and meetings, between the Parties shall be in English language except as otherwise agreed or explicitly required by the National Regulatory Authority.
- 2.5. *Certification Requirements*. By signing this Agreement, the declaration is made by the Contractor that the Contractor is professionally qualified, registered, authorised and certified to provide the Services in accordance with the Applicable Law.
- 2.6. *General Obligations of the Contractor*. The Contractor shall be responsible for the provision of Services according to the commonly accepted professional quality and technical accuracy, and for coordination of the Works undertaken under the scope of the Services with the competent institutions, authorities and/or Affected Parties, including, but not limited to obtaining required permits or authorisations, where applicable, and for timely and accurate delivery of the Final Report and other Deliverables, as well as any other Services as per the terms of this Agreement. The Contractor shall have an obligation, without additional compensation of any kind, to correct or revise any errors, deficiencies, or omissions in concepts, programming, reports, designs, drawings, specifications, estimates, and other services rendered and works performed hereunder and forming part of the Services.

- 2.7. *General Obligations by the Infrastructure Manager.* The Infrastructure Manager shall pay for the Services in accordance with the terms of this Agreement and subject to receipt of the signed Deed of Acceptance for the completed Services as approved by the Principal.
- 2.8. *Acceptance or Lack of Information Not a Waiver.* The Principal's review, approval or acceptance of any part of the Services shall not be interpreted or construed to operate as a waiver of any right or cause for action arising out of the Contractor's performance and provision of any Services under this Agreement. For the sake of clarity, the Contractor shall be obliged to request to the Principal the information, which is essential for the provision of the Services, and the Principal shall be allowed a reasonable time to respond. The Contractor shall not be discharged from the liability, if the information request has not been furnished to the Principal or such request has not been furnished on a timely basis. The Contractor shall remain liable to the Principal or the Infrastructure Manager according to the terms of this Agreement and the Applicable Law for any and all costs and/or Damages caused by the Contractor's negligent performance of any Services furnished under this Agreement.
- 2.9. *Representatives.* The Contractor, the Infrastructure Manager, and the Principal shall appoint an officer, employee or individual to serve as its authorised representative towards supply, review or approval of the Service or any part thereof (including, but not limited to, the issuance or confirmation of the Deed of Acceptance or Objection Notice) with full authority to act on its behalf in connection with this Agreement, without the rights to conclude amendments or variations ("~~the Representative~~"). For the sake of clarity unless instructed otherwise by the Principal any official communication between the Parties shall be in accordance with Clause 22.3. The Representatives having been listed in [...]

- 2.11. **Annex L: Representatives.** Any other restriction placed by either Party on its Representative's authority shall be notified to the other Party in writing to be effective.
- 2.12. *Replacements.* The Contractor, the Infrastructure Manager and the Principal may replace or recall any Representative by notifying in writing the other Parties in accordance with Clause 22.3. In such circumstances, no separate amendments to the Agreement are required.

3. Commencement

- 3.1. *Pre-Conditions to Commence.* The Contractor within twenty (20) days following the Effective Date shall submit:
- 3.1.1. To the Infrastructure Manager the Performance Bond in accordance with the terms of Clause 16 and as per the sample in Annex H;
- 3.1.2. To the Principal and Infrastructure Manager the Third Party Liability Insurance certificate in accordance with Clause 15.

The Principal shall review the draft Performance Bond and approve its compliance with the terms of the Agreement before the original of the Performance Bond is issued to the Infrastructure Manager. The Principal shall review the Third Party Liability Insurance certificate and any additional information which may be requested by the Principal to verify their compliance with the Agreement within five (5) Working Days after receipt of the certificate and any underlying documents, and shall inform the Contractor of any supplements or amendments required to the insurance contract.

- 3.2. *Effective Date of the Agreement.* For the avoidance of doubt, the Agreement shall become effective upon the signing of the Agreement by all Parties ("the Effective Date").

4. Times and Deliverables

- 4.1. *Performance of the Services.* The Contractor shall perform the Services timely and with due diligence having due regard to any applicable Services Milestones for the performance of the Services set out in the Agreement and in the *Annex C: Schedule of Services*, as may be amended from time to time with the consent of the Principal or in accordance with this Agreement and Public Procurement Law of the Republic of Latvia ("the Time Schedule").
- 4.2. *The Commencement Date.* The Contractor shall commence the provision of the Services on or about the Effective Date.
- 4.3. *Delay of Commencement of Works.* The Contractor shall be allowed for the delayed commencement of Works, including any preparatory or auxiliary Services related to such Works due to the seasonality and weather conditions that may reasonably impede for the performance and/or completion of such Works in the required quality and in accordance with the applicable professional standards. Such delay of commencement shall be notified by the Contractor to the Principal and accompanied with the justification for the delay, as well as pre-aligned with the respective Affected Parties and the Infrastructure Manager, and shall be pre-approved in writing with the Principal by way of a written notice by the Contractor to the Principal in accordance with Clause 22.3. For the sake of clarity, the confirmation on the delay of the commencement of Services shall not be interpreted as granting to the Contractor extension of the Final Completion Date and/or of the deadlines for any of the Services Milestones as per Clause 4.4.
- 4.4. *The Final Deadline for Completion and Services Milestones.* Subject to the terms and procedure provided under Clause 10, the final deadline from completion of the Services in their entirety shall be the deadline for submission of the Final Report, and when the Final Report has been reviewed by the Infrastructure Manager and approved by the Principal, and it shall not be later than 18 (eighteen) starting on the Commencement Date ("the Final Deadline for Completion"). The Agreement shall be completed and shall expire once the Parties have fulfilled their contractual obligations arising out of this Agreement in full.

The following Services milestones are set in accordance with *Annex C: Schedule of Services* ("the Services Milestones"), which shall be met and the following Deliverables have been submitted to the Principal:

- (a) Production of New Benchmarks and external elements of the Benchmarks at the Contractor's production site (**Phase 1**);
- (b) Maintenance and determination of coordinates and ellipsoidal heights of maintained Benchmarks (**Phase 2**);

- (c) Installation of New Benchmarks, and determination of coordinates and ellipsoidal heights of installed Benchmarks (**Phase 3**);
 - (d) Delivery of the draft version of the Final Report and review by the Principal and the Infrastructure Manager, and;
 - (e) Completion and delivery of the Final Report, and approval by the Principal (**Phase 4**).
- 4.5. *Control of the Time Schedule by the Principal.* The Principal and the Infrastructure Manager reserves the right to review and comment the draft version of the Final Report and the underlying Deliverables before the Final Report is submitted by the Contractor to the Principal. The Principal and the Infrastructure Manager reserves the right to organise random checks (including with the participation by the Representative or employees of the Infrastructure Manager) on Site upon their own discretion with the aim to approve the Benchmarks and their external elements. Such random checks may be organised before and/or about the date of reaching the Services Milestone(s) as per Clause 4.4(a)-(c) .
- 4.6. *Impediments and Delays.* If the Services, or any part thereof, is impeded or delayed by the Contractor, and it has or may affect the Final Deadline for Completion or any of the Services Milestones as per the Time Schedule:
- (a) the Contractor shall inform the Principal of the circumstances and probable effects of such impediment or delay upon the agreed Time Schedule on timely basis, and shall seek the extension of deadline by way of a written notice to the Contractor reasonable time before the set deadline for the Services Milestone or the Final Deadline for Completion; and
 - (b) the duration of the Services shall be prolonged, and the affected Services Milestone or the Final Deadline for Completion shall be extended by the Principal, if it is proven by the Contractor that the respective deadline shall be affected by such justifiable impediment or delay.

5. Variations

- 5.1. *Variations.* Notwithstanding any provisions in this Agreement to the contrary, whenever the Contractor, the Principal, or the Infrastructure Manager reasonably consider that a variation to the Agreement or any part thereof (the “Variations”) is necessary, the Contractor, the Infrastructure Manager and the Principal shall negotiate in good faith on the terms of the intended Variations. The intended Variations shall be aligned with the Infrastructure Manager before the final approval shall be issued by the Principal to the Contractor. For the avoidance of doubt, no Variation shall be effective unless and until concluded in writing by the Parties.
- 5.2. *Variations Scope.* For the purpose of the Agreement, and at any time prior to the completion of the Services under the Agreement Variations may be issued in respect of:
- (a) amendments to the Agreement or any part thereof to comply with the amendments or adjustments to the Applicable Law from time to time, if any;
 - (b) amendments to

- (c) *Annex B: Technical Specification* to comply with any requirements (mandatory or optional) of the National Regulatory Authorities or any other or the Affected Parties, which are entitled to issue decrees, instructions or recommendations with respect to the Scope of Services;
 - (d) the supply of additional Services not previously foreseen under the Scope of the Agreement;
 - (e) the Clause of the Agreement, which prescribes the issue of Variations;
 - (f) implementation of any amendments to the Agreement as initiated or approved by the Principal during the provision of the Services, which are necessary due to such reasons the Principal could not foresee in advance, including, but not limited to the matters as per sub-Clauses 5.2 (a)-(e).
- 5.3. *Limitations to the Variations.* In case of Variations due to supply of additional Services not previously foreseen under the Agreement, or due to reasons which the Principal could not foresee in advance, the total value of the Agreement may not change by more than fifty percent (50%) in accordance with the fourth paragraph of the Section 61 of the Public Procurement Law of the Republic of Latvia.
- 5.4. *De minimis.* Notwithstanding anything to the contrary contained in the Agreement, the Contractor and the Principal may agree on the supply of additional Services not previously foreseen under the Agreement, if they do not change the nature of the Agreement (type and purpose specified herein) and if the total value of such additional Services does not concurrently reach the thresholds specified by the Cabinet of Ministers of the Republic of Latvia, starting from which the agreement notice must be published in the Official Journal of the European Union and ten percent (10%) of the total value of the Agreement.
- 5.5. *Variation Fee.* Fee for additional services as a result of Variations, if any, shall be determined taking into account the hourly rate as provided under
- 5.6. [...]
- 5.7.

- 5.8. **Annex K: Contractor's Proposal.** Furthermore, such fee shall be consistent with the market practice and proportionate to the Fee for Services with similar scope under the Agreement, if any.

6. Responsibilities of the Principal and the Infrastructure Manager

- 6.1. *Supply of Documentation and Information.* Unless otherwise provided under this Agreement, the Principal and/or the Infrastructure Manager shall, in a timely manner, provide to the Contractor any relevant Documentation, information and data on the Project as may reasonably be requested by the Contractor for the purposes of the provision of the Services, provided that the Principal and/or the Infrastructure Manager is in possession of such Documentation, information and data. The Principal shall provide the common data environment, where all the Documentation relevant to the execution of this Agreement and all the Deliverables shall be uploaded by all the Parties and shall maintain the common data environment site through-out the term of validity of this Agreement and until the expiry of the term as set by Clause 7.7. The address of the common data environment site shall be communicated to the Representatives of the Parties on or about the Effective Date.
- 6.2. *Review of Documentation.* Review of any documents and/or Deliverables by the Principal and the Infrastructure Manager and any decisions or opinions issued to the Contractor shall not discharge from or limit the Contractor's liability for any errors, faults, omissions, deficiencies, or defects.
- 6.3. *Decisions.* the Principal shall deliver to the Contractor its decision as aligned with the Infrastructure Manager on all matters properly referred by the Contractor to the Principal in writing and reasonably required for fulfilment of the Agreement in accordance with Clause 22.3 within a reasonable time so as not to delay the provision of Services.
- 6.4. *Inspections, Checks and Final Inspection of Services and Works on Site.* Inspections and/or intermediate checks on the status and/or the completion of the Works and Services under Phases 2 and 3, including the Final Inspection shall be the sole responsibility of the Principal. The approval of Deliverables under Phase 4 (the Final Report) shall be carried out by the Principal. The Final Report may also be reviewed by the Infrastructure Manager. In this case any comments and remarks shall be aligned between the Principal and the Infrastructure Manager before they shall be distributed to the Contractor by the Principal. The inspections and intermediary checks, including the Final Inspection of the Works on Site may be carried by way of Documentation checks on all Benchmarks and may be complemented with the physical checks on selected Site. The time and place of the Final Inspection, if carried on Site, shall be pre-agreed between the Representatives of the Contractor and the Principal, and the Representative of the Infrastructure Manager shall be informed as well to allow the Infrastructure Manager to appoint its Representative to participate in the Final Inspection, if the Infrastructure Manager deems necessary.
- 6.5. *Health and Safety checks.* The Principal and the Infrastructure Manager may check the Contractor's compliance with the *Annex E: Health and Safety Standard* and *Annex F: General Environmental Requirements*. Any accidents, near misses, breaches or omissions discovered or that has come to the knowledge of the Infrastructure Manager shall be immediately reported to the Principal, and a co-ordinated action steps towards the Contractor shall be pre-aligned with the Representative of the Principal.
- 6.6. *Warranty Time Inspection(s).* During the Defect Claims Period, the Infrastructure Manager may carry out Warranty Time Inspection ("the Warranty Time Inspection"). Such Warranty Time Inspection may be carried out on Site or by way of Documentation check subject to the availability of such documents (photos, panorama views and any other proof as may be requested by the Infrastructure Manager). The time and place of the inspection carried on Site shall be pre-agreed between the Parties. The Representative of the Principal shall be informed of the Warranty Time Inspection taking place to allow reasonable time for the Representative of the Principal to plan the presence at the Warranty Time Inspection, if required.
- 6.7. *Action Upon Becoming Aware of Defects.* In the event the Principal and/or the Infrastructure Manager during the Defects Claims Period observes or otherwise becomes aware of any error, fault, omission, or defect in the Services or non-conformance of any action forming part of the Services, the Principal and/or the Infrastructure Manager shall give prompt written notice thereof to the Contractor. The Contractor shall have the obligation to correct such error, fault, omission, or defect in the Services or non-conformance of any action forming part of the Services, and shall request to the Principal or Infrastructure Manager the inspection immediately after errors, faults, omissions or defects have been rectified.

7. Responsibilities of the Contractor

- 7.1. *Standard of Performance.* The Contractor's Services shall be performed with due professional skill and care, according to Good Industry Practice, with the aim to achieve regular progress of the Services and in accordance with the Time Schedule in accordance with

7.3. Annex C: Schedule of Services.

- 7.4. *Obligation to Act in Accordance with Principal's and Infrastructure Manager's Comments.* In performing the Services and Works, the Contractor shall have due regard to any comments made by the Principal and/or the Infrastructure Manager in connection with any review of the Deliverables and any underlying documentation or information furnished by the Contractor, and the Contractor shall provide grounded reasoning to the Principal and/or the Infrastructure Manager, where it does not take into account any such comments or remarks.
- 7.5. *Obligation to Regularly Check the Documentation and Information on the common data environment site.* The Contractor shall regularly check on the Documentation, information and data that shall be shared by the Principal and/or the Infrastructure Manager on the common data environment site provided by the Principal as per Clause 6.1.
- 7.6. *Deliverable Requirements and Language.* The Contractor may be required by the Principal and/or the Infrastructure Manager to provide copies of prints or electronic editions of the Deliverables. Contractor shall procure that any textual part of the Deliverable or the underlying documents shall be in English language unless otherwise instructed by the Principal and/or the Infrastructure Manager. All Deliverables and underlying Documentation shall be uploaded by the Contractor on the common data environment site provided by the Principal as per Clause 6.1.
- 7.7. *Cooperation with the Affected Parties.* The Contractor undertakes to cooperate with all the relevant Affected Parties, including but not limited to the relevant stakeholders of the Principal or the Infrastructure Manager provided for under Clause 1.5 of *Annex B: Technical Specification*, which are directly or indirectly involved in the Project as will be necessary for the provision of the Services and the fulfilment of the objectives set out in the Agreement.
- 7.8. *Duty of Care and Exercise of Authority.* The Contractor shall:
- (a) in performing its obligations under this Agreement, exercise reasonable professional skill, diligence and care as may be expected of a properly qualified and competent person carrying out services of a similar size, nature, type and complexity;
 - (b) ensure that its personnel are properly qualified and competent in accordance with the relevant professional standards, as well as acquainted with, instructed and trained in application of Health and Safety Standard and General Environmental Requirements;
 - (c) ensure that all Documentation - maps, drawings, plans, specifications, estimates, surveys and other documents and information, required to be prepared or submitted by the Contractor under this Agreement conform to Good Industry Practice generally acceptable at the time of submission of such maps, drawings, plans, specifications, estimates, studies, documents and information;
 - (d) at all times during the term of the Services, ascertain and comply with all national and EU Laws and regulations and Good Industry Practice in particular, but not limited to the Tax Laws and regulations, and *Annex E: Construction Health & Safety Standard*, and *Annex F: General Environmental Requirements* and other rules and regulations applicable to the subject matter according to the Applicable Law;
 - (e) comply, where applicable, with any reasonable requirements by the Infrastructure Manager and/or the Principal, including in respect of Health & Safety Standard and General Environmental Requirements and co-operation in this respect, not otherwise provided for in this Agreement;
 - (f) ensure that all documents and information are furnished in accordance with Good Industry Practice, and using conventional industry quality control methods; and
 - (g) notify the Principal and/or the Infrastructure Manager of any Defects in accordance with Clause 11.1 of this Agreement as soon as such Defects are identified;
 - (h) use its own materials and equipment or any parts thereof, which shall be properly tested and insured, in good quality and workmanship and fit for the intended purpose, where a purpose is defined in the Agreement and within *Annex B: "Technical Specification"* or, where no such purpose is defined, fits for its customary purpose;

- (i) provide all necessary management, supervision, materials and equipment, plant, consumables, facilities and other things whether of a temporary or permanent nature, so far as the necessity for providing the same is specified in or reasonably to be inferred from the Agreement.
- 7.9. *Maintenance of Records.* During the term of the Agreement and during six (6) years from expiration or termination of this Agreement for any reason whatsoever, the Contractor shall keep and maintain clear, adequate and accurate records and the Documentation evidencing, to the reasonable satisfaction of the Principal, that the Services have been carried out in accordance with the Agreement. 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 for a longer period of time.
- 7.10. *Access to Documentation.* At all times during the term of the Agreement, the Principal shall have access to all the Documentation. This access shall be continuing and survive the termination of this Agreement for either cause or convenience. All records forming part of the Documentation shall be available to the Principals` and/or the Infrastructure Manager's auditor or an expert or independent auditor appointed by the Principal and/or the Infrastructure Manager during the period of time specified in accordance with Clause 7.9
- 7.11. *Sub-Contractors and Staff.*
- 7.11.1. In carrying out the Services, the Contractor may only rely on the services of those Approved Sub-Contractors and Approved Staff listed in Annex D: , 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. Parties shall specify the name, contact details and legal representative(s) of each Approved Sub-Contractor as of the Effective Date in Annex D: . The Contractor shall have an obligation to notify the Principal in writing of any changes to Annex D: occurring during the term of this Agreement and of the required information for any new Sub-Contractors or staff member, which it may subsequently engage in the provision of the Services.
 - 7.11.2. 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 Approved Sub-Contractor or each Approved Staff member, or each key personnel indicated in Annex D: and involvement of additional sub-contractors or staff members, or key personnel.
 - 7.11.3. Review and evaluation of the replacement of Approved Sub-Contractors or Approved Staff shall be carried out, and the consent or refusal to give consent shall be rendered by the Principal in accordance with Article 62 of the Public Procurement Law. The Principal may refuse to approve the Sub-Contractor, if it does not comply with Section 42 and any one of the grounds as per Paragraphs 1 to 4 of Part three of Section 62 under of the Public Procurement Law.
 - 7.11.4. The Contractor shall replace the Sub-contractor and/or Staff member which during the term of provision of Services under this Agreement meets any of the compulsory grounds for exclusion of tenderers (or sub-contractors) that were verified during the Procurement Procedure.
- 7.12. *Responsibility for Performance by the Sub-Contractors and its Staff.* The Contractor shall retain the complete responsibility for the proper performance of all of its obligations under this Agreement, and any act, failure to act, breach or negligence on the part of any of its Approved Sub-Contractors and Approved Staff and other involved persons shall, for the purposes of this Agreement, be deemed to be the act, failure to act, breach or negligence of the Contractor. No subcontract shall bind or purport to bind the Principal and/or the Infrastructure Manager. Nevertheless, the Contractor shall ensure that any Approved Sub-Contractor and Approved Staff shall be bound by and observe the provisions of the Agreement in so far as they apply to the respective Approved Sub-Contractor and Approved Staff.
- 7.13. *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 Services and/or the Project. During the provision of 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.
- 7.14. *Attendance of Meetings.* To the extent necessary to ensure smooth and efficient provision of the Services, the Contractor shall at the Principal's and/or Infrastructure Manager's request and without additional charges

to the Principal and/or the Infrastructure Manager hold and/or attend meetings with the Representatives of the Principal, Infrastructure Manager and/or any Affected Party, Beneficiaries or any other third parties, at which appropriate personnel and /or the Representatives of each Party shall be present. Upon the Principal's or Infrastructure Manager's request the Contractor shall record all meetings (also online meetings) between the Parties and prepare meeting reports within five (5) Working Days after each meeting. All meeting reports shall be confirmed by the Principal and/or the Infrastructure Manager.

- 7.15. *Compliance with Laws.* The Contractor shall during the provision of the Services review the Applicable Laws on a regular basis. In carrying out any Works forming part of the Services, the Contractor shall, at all times, ensure compliance with the requirements imposed by the Applicable Law and/or National Regulatory Authorities having jurisdiction over the Project.
- 7.16. *Information Furnished by the Principal.* The Contractor shall provide prompt written notice to the Principal in accordance with Clause 22.3, if the Contractor becomes aware of any errors, omissions, or inconsistencies in the information and/or documents provided by the Principal, or if and when it requires information that is essential for completion of the Works, meeting the Milestones and/or submission of Deliverables as per *Annex B: Technical Specification*. It is the sole responsibility of the Contractor to furnish to the Principal the request for the information as soon as it becomes evident that such information is required, and the Principal shall respond to the Contractor within reasonable times.
- 7.17. *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 to the Principal and/or the Infrastructure Manager by the Contractor or the Sub-contractor shall include each of the following:
 - (i) a funding statement which indicates that the Services are financed from EU funds;
 - (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: "Funded by the European Union. Views and opinions expressed are those of the author(s) only and do not necessarily reflect those of the European Union or the granting authority. Neither the European Union nor the granting authority can be held responsible for them". The disclaimer in all official languages of the European Union and the visibility requirements are available for review on the webpage https://cinea.ec.europa.eu/beneficiaries-corner/communication-and-raising-eu-visibility/what-are-communication-requirements_en, and
 - (iii) the flag of the Council of Europe and the European Union;
 - (b) the requirements set forth in Clauses 7.17(a)(i) and 7.17(a)(iii) of this Agreement should be complied with by means of utilizing the following logo:



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the European Union**

- (c) the Contractor shall ensure that the logo remains distinct and separate, and no other visual identity or logo may be used to highlight the EU support;
 - (d) in order to comply with the latest applicable visibility requirements established by the European Union, the Contractor shall regularly monitor changes to visibility requirements on the official web-page of European Climate, Infrastructure and Environment Executive Agency (CINEA) and/or shall consult the Representatives of the Principal.
- 7.18. *Reporting.* The Contractor shall, in a format and at intervals to be agreed with the Principal:
- (a) provide the Principal with regular reports and status updates on the progress of the Services;
 - (b) report on any changes to the Annexes of this Agreement, including but not limited to Services Schedule, which the Contractor considers may be needed in order to fulfil the objectives set out in the Agreement; and
 - (c) use reasonable endeavours to provide any other information and status updates as may be reasonably requested by the Principal at any time.

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

7.19. *Health and Safety and General Requirements and Obligations Applicable to Environmental Protection.* The Contractor shall:

- (a) By undersigning the Acknowledgement on compliance with *Annex G: the Construction Health and Safety Standard in Rail Baltica Global Project and General Environmental Requirements* on behalf of the Contractor as per Clause 8.2 (j), ensure that its Key staff and personnel, as well as Approved Sub-Contractors and Approved Staff have acquainted themselves with the Principal's Construction Health and Safety Standard ("the H&S Standard") and General Environmental Requirements in Rail Baltica Global Project, and shall provide that its Services, including any Works to be performed on Site as part of the Services, shall at all times be fully compatible with the H&S Standard as far as it is applicable to the Works under the Scope of Services, as well as with the Applicable Law and regulations in the field of health and safety and environmental protection, and taking into account the scale of Works and the magnitude of risks involved. The Contractor's obligations under this Clause shall also include, but will not be limited to, compliance with any permits or approvals as required by the Affected Party, as well as receipt of a special permit or approval by the Affected Party concerned, if so required by the respective Affected Party for the execution of Works within the territory owned or in a possession of the Affected Party concerned. The Contractor shall keep the Principal and/or the Infrastructure Manager harmless of any claims from any Person, including, but not limited to, state or municipal institutions that are in charge of controlling the compliance of the Services (including any Works) with the H&S Standard and General Environmental Requirements;
- (b) bear the responsibility and be solely liable for the life, health and safety of all persons on the Site and other places where the Works are being executed (including, but not limited to, the Contractor's personnel, Approved Sub-Contractors and Approved Staff), as well as for any actions or inability to act, that have caused or may cause any detrimental effect on the environment and may cause any potential harm or pollution to it. Furthermore, the Contractor shall keep the Principal and the Infrastructure Manager harmless of any claims from such Persons or any third party made towards the Principal and/or the Infrastructure Manager in relation to any harm which may have occurred to the property, environment life, health and safety of the persons being involved or affected by the performance of the Services (including any works);
- (c) comply with all instructions or directives issued by the relevant state or municipal authorities, the Principal's and/or the Infrastructure Manager's health and safety and environmental protection officers;
- (d) keep the Site, where the Works are being carried out or Services are being provided, clear of unnecessary obstruction so as to avoid danger to all and any persons present at the places or may cause any pollution to the environment;
- (e) implement and duly maintain during the provision of Works a health and safety management system for all Persons the Contractor has involved in the performance of Works (including, but not limited to the Contractor's personnel, Approved Sub-Contractors and Approved Staff), compliant with "Plan", "Do", "Check", "Act" approach.

8. Representations and Warranties

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

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

- 8.2. *Certain Representations and Warranties by the Contractor.* The Contractor represents and warrants to the Principal, as of the Effective Date and during the entire term of the Agreement, 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 the Principal;
 - (b) it holds all requisite licenses, permits, authorisations, approvals and consents necessary to enable performance by the Contractor of any Works forming a part of the Services according to the specifications contained in this Agreement and

- (c) **Annex B: Technical Specification;**
- (d) it has all requisite ability to ensure the highest quality of the Services;
- (e) it will assign competent and duly qualified personnel indicated in the tender proposal to carry out the Services set out in this Agreement and applying the highest professional standards and Good Industry Practice. Moreover, whereby the Applicable Law for the performance of any Works forming a part of the Services requires the personnel to obtain a special certificate, license, permit, authorisation, qualification, the respective personnel assigned by the Contractor for the performance of such Works shall be duly certified according to the Applicable Law;
- (f) it is not deemed to be a person associated with the Principal for the purposes of Applicable Law;
- (g) it has been registered as a VAT payer according to the Applicable Law;
- (h) it is compliant with all of the requirements of the Contractor's Declaration (<https://www.railbaltica.org/lv/iepirkumi/iepirkumu-regulesana-un-piegadataju-kvalifikacija/>) and will continue to be compliant with all such requirements during the term of this Agreement;
- (i) it has made acquainted and updated itself that the actual condition of the soil and area, and has made itself aware of that the proposed design solution is suitable for the installation of the Benchmark within the proposed place according to the Location Design, and there are no either existing or reasonably anticipated hindrances;
- (j) it will immediately arrange for engagement of supplemental personnel, when necessary to complete the Works at the set deadlines for reaching the Services Milestones and the Final Deadline for Completion according to Clause 4.4 and the Time Schedule (*Annex C: Schedule of Services*) at the cost of the Contractor itself. For the avoidance of any doubt, the engagement of supplemental personnel shall not require approval by the Principal or the Infrastructure Manager provided that the personnel complies with the Applicable Law, including the Public Procurement Law of the Republic of Latvia, and this Agreement;
- (k) it will undersign the Acknowledgement on compliance with the Construction Health and Safety Standard in Rail Baltica Global Project and General Environmental Requirements (*Annex G*) on or about the Effective Date of the Agreement thus confirming its compliance with the applicable Health & Safety Standard and General Environmental Requirements, as well as any other binding rules and regulations applicable to the health and safety and environmental protection following from the Applicable Law, special requirements imposed by the Affected Parties and / or local authorities, and which fall under the general obligations of the Contractor under the Scope of the Services according to this Agreement.

9. Fee and Payment

- 9.1. **Total Value.** The total value of the Services provided under the Agreement shall not exceed **EUR 85 930.00 (eighty five thousand nine hundred thirty euros, 0 cents)**, VAT not included.
- 9.2. **The Fee.** The Infrastructure Manager undertakes to pay to the Contractor the fixed fee for the completed and approved Services in the total amount of EUR 85 930.00 (eighty-five thousand nine hundred thirty euros, 0 cents), VAT not included) ("**the Fee**") in consideration of the due provision of Services. The Fee shall become payable following the submission by the Contractor and approval of the Final Report by the Principal, and subject to signing of the Deed of Acceptance by the Contractor and the Principal. It is acknowledged and agreed by the Parties that the Fee shall include all Costs and expenses incurred by the Contractor and Approved Sub-Contractors towards performing of the Services.
- 9.3. **Advance Payment.** The Contractor is entitled to the Advance Payment in total amount of 30 (thirty) per cent of the Fee. The Advance Payment shall become payable after the completion of Phase 1 of the Services as per Clause 2.3 and subject to the signing of the Deed of Acceptance by the Contractor and the Principal in accordance with Clause 11.5, whereby the Principal confirms that there are no visible defects in the Benchmarks and their external elements. The amount of the Advance Payment shall be deducted from the payment of the Fee upon completion of the Services in their entirety.
- 9.4. **Invoicing.** According to Clauses 9.2 and 9.3 and following the Services Milestone and Completion Date, provided that the Principal has accepted/approved the respective Deliverable according to the terms of Clauses 11.3 - 11.8, the Principal shall send to the Infrastructure Manager the signed Deed of Acceptance and shall instruct the Contractor to issue to the Infrastructure Manager an invoice, specifying the amount of the Fee payable. In the event the Infrastructure Manager objects to payment of any amount claimed by the

Contractor in the invoice, a written notice in accordance with Clause 22.3 shall be sent by the Infrastructure Manager to the Contractor not later than seven (7) days before the due date for payment under Clause 9.5. 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 Infrastructure Manager, the amount to be paid is that stated in the invoice which shall become due and payable in accordance with this Agreement.

- 9.5. *Payment.* Subject to the provisions of Clause 9.4, the Infrastructure Manager may reserve 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. If the Infrastructure Manager uses the right to make the payments to the Contractor with set off, retention, counterclaim, abatement or other deduction of any kind, then the Infrastructure Manager so notifies to the Contractor and the Principal no later than on the date of the respective payment stating the amount, the grounds and the basis on which the Infrastructure Manager uses its right to set off, retention, counterclaim, abatement or other deduction or other right. Invoices shall be paid within sixty (60) days after the date of issue of the invoice. For the avoidance of any doubt, and save for the Advance Payment, the Infrastructure Manager shall not be required to pay any amount with respect to any invoice in the absence of a Deed of Acceptance duly signed by the Principal, taking into account that the Services shall be accepted by the Principal in accordance with Clauses 11.4, 11.6, 11.7 and 11.8 of this Agreement. The Infrastructure Manager is entitled to reduce the amount of the Advance Payment payable, if in accordance with the signed Deed of Acceptance there are remarks that all or part of the Benchmarks or their external elements have been produced with defects, and which as of the date of payment have not been rectified.
- 9.6. *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.
- 9.7. *Compliance with Tax Obligations by the Contractor.* It is acknowledged and agreed by the Parties that the Fee shall include all taxes and duties payable or which may be attributable to and become payable within the scope of the Services by the Contractor, but not including the Value Added Tax. The Contractor shall at the sole cost and expense of the Contractor shall assume all risks, including the risk of increase of any taxes and duties, and shall comply with the obligations to report and pay all taxes and duties relevant to the provision of the Services in accordance with the Applicable Law.
- 9.8. *Invoice.* The Contractor's invoices shall contain the following Contractor's details and details about the Agreement:

(a) Contractor's details and details about the Agreement:

Contractor	SIA "ĢEODĒZISTIS"
Registration No	41203006878
VAT payer's No	LV41203006878
Legal address, city, Zip code, country	Vasarnīcu iela 16, Ventspils, LV-3601, Latvia
Name of Bank	[...]
SWIFT Code	[...]
IBAN	[...]
Subject:	Geodetic Services for Agreement 1.19/LV-2025-59

- (b) the number and the date of issue of the invoice;
- (c) the name or a description of the Services, including the reference to the relevant Phase of the Services;
- (d) the date of submission of the Deliverable of the Services (except for the invoice for the Advance Payment);

- (e) the price of the services, with no Value Added Tax included, and any discounts, if applicable;
- (f) the taxable amount broken down by different rates of Value Added Tax together with the applicable rates of Value Added Tax or the amount of supply exempt from tax;
- (g) the amount of Value Added Tax payable. The amount of Value Added Tax shall be indicated in euros;
- (h) the following Infrastructure Manager's details:

The Infrastructure Manager	Osaühing Rail Baltic Estonia
Registration No	12734109
VAT payer's No	EE101954107
Address	Harju maakond, Tallinn, Kesklinna linnaosa, Veskiposti tn 2/1, 10138
Name of Bank	[...]
Bank Code	[...]
Bank Account No	[...]

The Contractor shall send the draft invoice to the Infrastructure Manager and the Principal electronically to the following e-mail addresses of the Representatives: [...] and [...], and [...]. The Principal shall review the draft invoice to verify whether it corresponds with the Deed of Acceptance to which the Invoice is pertaining before the original of the invoice is sent to the following e-mail address of the Infrastructure Manager: [...].

10. Warranty Period

- 10.1. *Lifecycle of the Benchmarks.* The lifecycle of Benchmarks maintained and installed by the Contractor shall be 30 (thirty) years and shall start from the acceptance of the Final Report by the Principal without defects and/or remarks.
- 10.2. *Warranty Period Applicable to the Works.* The Warranty Period applicable the Works shall coincide with the Defects Claims Period as per Clause 11.2.

11. Remedying of Defects and Deed of Acceptance of the Services

- 11.1. *Defects and Discrepancies in the Deliverables.* The Principal or the Infrastructure Manager shall notify the Contractor of each Defect as soon as it is identified by the Principal or the Infrastructure Manager during the Defects Claims Period as per Clause 11.2, and the Contractor shall have an obligation to notify the Principal and the Infrastructure Manager of each Defect as soon as it is identified by the Contractor. The notification shall be sent by either Party in accordance with Clause 22.3. Upon discovering a Defect or upon receipt by the Contractor of a notification of the Defect, the Contractor shall have no more than thirty (30) Working Days to remedy the Defect (the "Cure Period"). In the event of inability or failure by the Contractor to remedy the Defect within the Cure Period, the Principal shall be entitled at the sole and exclusive discretion of the Principal or the Infrastructure Manager to do any of the following:
 - (a) allow the Contractor an additional time period for remedying the Defect, such time period to be determined in the sole discretion of the Principal or the Infrastructure Manager;
 - (b) remedy the Defect at the costs of the Infrastructure Manager (including by means of relying on the services of a third Person), and demand the reimbursement by the Contractor of all direct and associated costs incurred by the Infrastructure Manager as a result of having to pay other Persons toward carrying out any work or action;
 - (c) terminate the Agreement according to Sub-clause (b) of 13.1 (Termination and suspension).

For the avoidance of any doubt, the application of the Cure Period under this Clause 11.1 shall be without prejudice to and shall not relieve the Contractor from the obligation to pay any contractual penalty in accordance with the provisions of Clause 14.2 at the Principal's request or to compensate any Damages in accordance with the provisions of Clause 14.5 of this Agreement.

- 11.2. *Defects Claims Period.* The Infrastructure Manager shall be entitled to claim rectification of the Defects within 2 (two) years period ("Defects Claims Period"), which shall begin on the Completion Date in accordance with Clause 11.3. The Defects Claims Period shall be extended to additional 2 (two) years for any warranty claims with respect to repeating and systematic Defects in the Benchmarks.
- 11.3. *Completion of Services and the Deed of Acceptance.* Services by the Contractor shall be completed, when the Contractor has reached the Services Milestone of Phase 4 and has delivered to the Principal the Final Report according to the

- 11.4. *Annex B: Technical Specification and Annex C: Schedule of Services* (“the Completion Date”). Upon delivery of the Final Report (including all Documentation and information forming part of the Deliverable), the Contractor shall issue the Deed of Acceptance (“the Deed of Acceptance”). The Deed of Acceptance shall include the Final Report and all supporting Documentation and any other information relevant and the proofs for the Services and Works completed. The Principal shall send the Deed of Acceptance signed by the Contractor to the Infrastructure Manager to review before it is approved by and signed on behalf of the Principal. The Principal and the Infrastructure Manager reserves the rights to inspect the completion of the Works on Site, review, comment and request for any amendments to the Deliverables at any time during the provision of the Services until the Final Report have been approved by the Principal.
- 11.5. *Partial Acceptance of the Services upon Completion of Phase 1.* The Contractor may issue a signed Deed of Acceptance to the Principal and the Principal shall review and approve it following the reaching by the Contractor of the Services Milestone of Phase 1. The approval of the Deed of Acceptance following completion of Phase 1 in full or in part shall be a pre-requisite of the payment of Advance Payment by the Infrastructure Manager as per Clause 9.3.
- 11.6. *Acceptance or Rejection of the Deed of Acceptance.* Upon the reception of the Deed of Acceptance from the Contractor in accordance with Clause 11.3 the Representatives of the Principal and the Infrastructure Manager shall review the submitted Deed of Acceptance and the Final Report, as well as any other Deliverables and supporting Documentation and:
- (a) in the event the Principal rejects or the Infrastructure Manager objects to the submitted Deed of Acceptance, it shall give notice to the Contractor setting out in reasonable detail any Defect or reason for the objection (the “Objection Notice”) within reasonable time following the receipt of the Deed of Acceptance thus initiating the Cure Period and Defects remedy procedure as specified in Clause 11.1; or
 - (b) in the event no reasons for objection to the Deed of Acceptance exist, the Principal and the Infrastructure Manager shall sign the Deed of Acceptance within the reasonable time following its receipt. The date the Principal accepts and signs the Deed of Acceptance shall constitute Completion Date. The signed Deed of Acceptance may have annexed to it a list of any outstanding Defects or deficiencies to be corrected by the Contractor.
- 11.7. *Completion of Services Following Receipt of Objection Notice.* After the Defects specified by the Principal in the Objection Notice have been remedied, the Contractor shall issue to the Principal a second signed Deed of Acceptance as per the procedure specified in Clause 11.3, and the Principal and the Infrastructure Manager shall perform the review as generally provided for in Clause 11.6 of this Agreement and:
- (a) in the event no further reasons for objection to the second Deed of Acceptance exist, then the Defects remedy procedure is concluded and the provisions of Sub-clause (b) of Clause 11.6 are to be applied;
 - (b) in the event the Principal rejects or the Infrastructure Manager object to the submitted second Deed of Acceptance, it shall give a second Objection Notice, thus simultaneously continuing the Defects remedy procedure with the possibility for the Principal and the Infrastructure Manager to execute the Clauses 11.1(a)– 11.1(c) at its own discretion.
- 11.8. *Objection Notice and Contractual Penalty.* For the avoidance of any doubt, the giving by the Principal of any Objection Notice or second Objection Notice shall be without prejudice to and shall not relieve the Contractor from the obligation to pay any contractual penalty or to pay Damages in accordance with the provisions of this Agreement upon the Principal’s request.

12. Intellectual and other Property Rights

- 12.1. *Proprietary Rights.* The Final Report delivered by the Contractor to the Principal shall become the sole property of the Principal. The New Benchmarks, developed, produced and installed under the Scope of Services shall become the sole property of the Infrastructure Manager at the moment of installation regardless of whether the Services or any or all of the Deliverables are finally accepted by way of signing the Deed of Acceptance. It is acknowledged and agreed by the Parties that the Infrastructure Manager shall be permitted to use the Benchmarks and to use and/or copy and/or reproduce any Deliverable, including but not limited to the Final Report without any approval of the other Parties and without incurring obligation to pay any royalties or additional compensation whatsoever to the Contractor or the Principal. For the avoidance of any doubt, such title or rights shall confer upon the Principal and the Infrastructure Manager, without limitation, each of the following:

- (a) the right to reproduce the Final Report and any underlying data and information, or any part thereof, and distribute copies of the Deliverables, including the Final Report and information or any part thereof;
- (b) the right to modify, amend and supplement the Deliverables, including the Final Report and underlying information, or any part thereof;
- (c) the right to licence (or sub-licence of the Final Report by the Infrastructure Manager the Deliverables and the underlying information, or any part thereof, for use by others; and
- (d) the right to transfer ownership or other rights pertaining to the Deliverables, including the Final Report and underlying information, or any part thereof, to others.

- 12.2. *Access Rights by the Principal.* It shall be understood that the Principal shall be granted with unlimited access rights to the maintained and New Benchmarks and shall not be deprived of rights to perform any geodetic activities that may be required from time to time for the purposes and the benefit of the Project. The Principal shall also be granted with the rights without request for a special licence, which are similar or alike to the rights as listed under Clause 12.1(a) - (d).
- 12.3. *Licence from Employees of the Contractor.* The Contractor hereby warrants that it shall obtain from any personnel, Approved Sub-contractors and Approved Staff, and shall grant to the Infrastructure Manager and the Principal an exclusive licence to use the personal Intellectual Property rights pertaining to the Deliverables, including the Final Report. The licence shall be valid for the statutory time period applicable to the protection of the respective Intellectual Property rights.
- 12.4. *Intellectual Property Rights within the Deliverables and the Documentation.* The Contractor represents and warrants that it owns all Intellectual Property required for the purposes of completing its obligations under this Agreement and in all Deliverables and Documentation that has been or shall be delivered by or on behalf of the Contractor under this Agreement and that, to the extent any Intellectual Property rights in any Deliverable or Documentation is not owned by the Contractor, it has obtained all requisite consents from the owner(s) of the respective Intellectual Property rights to comply with its obligations undertaken by the Contractor under this Agreement, and has fully discharged the Principal and the Infrastructure Manager from any obligations with respect to payment of any royalties or fees.
- 12.5. *No Additional Royalty.* It is acknowledged and agreed by the Parties that consideration for the transfer of ownership of the Intellectual Property shall be forming part of the Fee and no additional royalty, fee or other consideration of any kind shall be payable by the Infrastructure Manager or the Principal to the Contractor or to any third party in consideration of the transfer of ownership of the Intellectual Property in any Documentation.
- 12.6. *No Infringement.* The Contractor represents and warrants to the Infrastructure Manager and the Principal that no Deliverable or Documentation and underlying information forming part of the Deliverable or Documentation submitted to the Principal and the Infrastructure Manager under the terms of this Agreement shall infringe any existing Intellectual Property rights of any third party. In the event any of the representations or warranties contained in this Clause 12 *Intellectual and other Property Rights* prove to be untrue or inaccurate, the Contractor undertakes at its own cost and expense to defend and settle any claim raised by any third party alleging infringement of Intellectual Property rights in the Deliverable and/or the Documentation, and/or any underlying information forming part of the Deliverable.
- 12.7. *Indemnification by the Contractor.* The Contractor shall indemnify the Infrastructure Manager and the Principal from and against any and all Damages arising from the use by the Infrastructure Manager and/or the Principal of any Intellectual Property of the Contractor, to the extent use by the Infrastructure Manager and/or the Principal is within the scope of the license granted to the Infrastructure Manager and/or the Principal.

13. Termination and suspension

- 13.1. *Termination due to Material Breach or Bankruptcy.* Subject to the provisions of Clause 13.2 of this Agreement, either Party shall be entitled to terminate (withdraw from) 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. An event of material breach shall include, but shall not be limited to, any of the following:
- (a) commitment by a Party of any persistent or material breach of this Agreement which shall include failure to pay an amount of at least EUR 9,000 due to any other Party or perform any part of the Services by the Contractor valued at least EUR 9,000;

- (b) failure by the Contractor to duly address any of the matters raised in the second Objection Notice given by the Principal and/or the Infrastructure Manager in accordance with Clause 11.7;
- (c) failure by the Benchmarks or the Final Report to conform to any of the material requirements to the Benchmarks or Final Report contained in *Annex B: Technical Specification* provided that such failure is not capable of being remedied during the Cure Period;
- (d) failure by the Infrastructure Manager to make any payment to the Contractor in accordance with this Agreement within at least thirty (30) Working Days from the date of payment falling due;
- (e) any of the representations or warranties given by either Party under Clause 8.1 of this Agreement or any of the representations or warranties given by the Contractor under Clause 8.2 of this Agreement proving to be untrue; or
- (f) breach by the Contractor of the undertaking contained in Clause 12.4 of this Agreement.

13.2. *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 seven (7) days for corrective action or submission of a corrective action plan (the “Corrective Period”). The Corrective Period shall be counted from the date of receipt by the breaching Party of a written notice of breach. Should no satisfactory corrective action be taken, or acceptable corrective action plan provided by the breaching Party, the non-breaching Party shall have the right to terminate the Agreement. It is acknowledged and agreed by the Parties that the provisions of this Clause 13.2 of this Agreement shall not apply with respect to any of the events listed in accordance with Clause 13.3 of this Agreement. In addition and for the avoidance of any doubt, the application of the Corrective Period under this Clause 13.2 of this Agreement shall be without prejudice to and shall not relieve either Party from the obligation to pay any contractual penalty in accordance with the provisions of Clause 14.2 of this Agreement or to pay Damages incurred by the other Party in accordance with the provisions of Clause 14.5 of this Agreement.

For the sake of clarity, the Corrective Period is not applied in case of material breach under Clause 13.1(b) or Clause 13.1(c), as in these cases the purpose of the Corrective Period is fulfilled by the Cure Period or the term specified in the Objection Notice, as the case may be, and their prior application.

13.3. *Right to Terminate the Agreement Immediately.*

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

- (a) breach by any the other Party of Clause 22.2 of this Agreement;
- (b) an event of Force Majeure has been continuing during more than sixty (60) days;
- (c) the Contractor has passed a resolution for winding-up;
- (d) liquidation, insolvency or legal protection proceedings have been initiated with respect to Contractor or the Contractor is declared insolvent;
- (e) the occurrence of any event analogous to the events listed under Clauses 13.3.1 (d) under the Applicable Law of a jurisdiction to which the Contractor’s assets and undertaking are subject.
- (f) the Contractor’s failure to take out and maintain the Third Party Liability insurance valid and/or extend it (as the case may be) and provide the copy of the certificate to the Principal according to Clauses 15.1 - 15.9.

13.3.2. *Principal’s and the Infrastructure Manager’s Right to Terminate Immediately.* The Principal and the Infrastructure Manager 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-funding or any source of funding for further financing of the Services is not available to the Principal and/or the Infrastructure Manager fully or partly, or the Principal and/or the Infrastructure Manager, its successor or assignee to whom the Contract has been assigned in accordance to Clause 22.7 has decided not to proceed with the Services;

In such a case, the Infrastructure Manager shall reimburse the Contractor the actual costs 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. Such actual costs shall include the costs for the Services actually delivered, but in any case shall not include any loss of profit.

- (b) it is not possible to execute the Agreement due to the application of international or national sanctions, or European Union or North Atlantic Treaty Organization applied sanctions significantly affecting interests of financial or capital market;
- (c) in case, if the Time Schedule as per *Annex C: Schedule of Services* is breached and no extension of time has been granted by the Principal;
- (d) breach by the Contractor any of the confidentiality undertakings contained under Section 18 Confidentiality.

13.4. *Termination according to Public Procurement Law.* The Agreement may be immediately terminated upon giving to the Contractor a written notice of termination explaining in reasonable detail the reason for termination upon occurrence of any of the circumstances listed under Article 64 of the Public Procurement Law. In such a case the Infrastructure Manager shall pay to the Contractor the fees in respect of the Works and Services completed under this Agreement up to the date of the notification of the termination of this Agreement, and the Infrastructure Manager or the Principal is not obliged to pay contractual or any other penalty or Damages to the Contractor.

13.5. *Right to Advance to Completion.* In the event the Contractor is in breach of Clauses 13.1 and 13.3.2 (c) and (d)(c) above or fails to cure any breach in accordance with Clause 13.2 of this Agreement, and the Agreement is terminated by the Principal or the Infrastructure Manager, the Principal or the Infrastructure Manager may advance the Services to completion by employing the provision of Services by other professional service supplier(s) or by other means available to the Principal and/or the Infrastructure Manager. The Contractor shall be liable to the Principal and/or the Infrastructure Manager for any and all additional costs incurred due to failure by the Contractor to perform. The rights and remedies available to the Principal or the Infrastructure Manager set forth in accordance with this Clause 13.5 of this Agreement shall be in addition to any and all other rights and remedies available under the Applicable Law.

13.6. *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 7.9, 7.10, 9.7, 11.1, 12.4, 12.5, 12.6, 12.7, 13.7, 14.1, 14.2, 14.5, 18, 19, 20, 21, 22.1, 22.2 of this Agreement 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 13.6 (b) of this Agreement.

13.7. *Partial Acceptance.* Notwithstanding anything in this Agreement to the contrary including, without limitation, the provisions of Clauses 11.4, 11.6, 11.7 and 11.8 of this Agreement and in the event of termination of this Agreement, the Principal shall have the right, within the sole discretion of the Principal, to partially accept any part of the Services delivered to the Principal under this Agreement (the "Right of Partial Acceptance"). The Principal or the Infrastructure Manager shall notify the Contractor of its intention to exercise the Right of Partial Acceptance within the termination notice given in accordance with Clause 13.1 or Clause 13.3 of this Agreement, specifying, in reasonable detail the Services or part of the Services which the Principal or the Infrastructure Manager would like to partially accept. In the event of receipt of such notice, the Contractor shall reasonably cooperate with the Principal and the Infrastructure Manager in order to ascertain transfer to the Principal and the Infrastructure Manager of ownership in the result(s) of such Services and determination of the amount of consideration payable by the Infrastructure Manager.

13.8. *Infrastructure Manager's Obligation to Pay.* In the event of termination of the Agreement due to the fault of the Infrastructure Manager in accordance with Clause 13.1 or 13.3.1 of the Agreement, the Infrastructure Manager shall be obliged to compensate to the Contractor only those direct and reasonable Costs which are attributable to the Services and are incurred by the Contractor until the termination of the Agreement. The total amount of such Costs shall in any case not exceed the amount of the Fee payable as per Clause 9.2. The Infrastructure Manager shall have no obligation to pay any of the Costs incurred by the Contractor with respect to any Services (or part of the Services), if the Agreement has been terminated due to the violation of Clause 22.2 by the Contractor or due to application of international sanctions as per Clause 13.3.2(b) or

for the Services, which are not deemed as having been accepted by the Principal in accordance with Clauses 11.3, 11.5, 11.6, 11.7 and 11.8 of this Agreement due to the fault of the Contractor.

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

14. Liability

- 14.1. *Liability of the Parties.* The Contractor shall be liable to compensate Damages incurred by the Principal and/or the Infrastructure Manager arising out of or in connection with this Agreement and pay contractual penalty set forth in accordance with Clause 14.2 of this Agreement if a breach of any of the obligations of the Contractor under this Agreement is established against the Contractor. The Infrastructure Manager shall be liable to pay the contractual penalty set forth in accordance with Clause 14.2 of this Agreement if a breach of payment obligations of the Infrastructure Manager under this Agreement is established against the Infrastructure Manager.
- 14.2. *Contractual Penalty.* In the event of failure by the Contractor to complete the Services and to meet any of the Services Milestones or the Final Deadline for Completion, and to complete the Works, to supply the Final Report or any of the Deliverables, the Contractor shall be liable to pay to the Infrastructure Manager a penalty of zero point five (0.5%) of the amount of total Fee payable under this Agreement for each day of delay starting from the first delayed day to meet the respective Services Milestone or Final Deadline for Completion and/or to supply of the particular Deliverable set forth in accordance with

- 14.4. **Annex C: Schedule of Services**; provided, however, that the total amount of penalty payable by the Contractor under this Clause 14.2 shall not exceed ten percent (10%) of the total amount of the Fee. In the event of failure by the Infrastructure Manager to pay any amount in accordance with the Clause 9 *Fee and Payment*, the Infrastructure Manager shall be liable to pay to the Contractor a penalty of zero point five percent (0.5%) of the amount invoiced for each day of delay to meet the payment obligation; provided, however, that the total amount of penalty payable by the Infrastructure Manager under this Clause 14.2 of this Agreement shall not exceed ten percent (10%) of the total amount remaining unpaid under the relevant invoice.

For the avoidance of doubt the contractual penalties shall be applied upon the sole discretion of the entitled Party under the Agreement considering the material consequences of the infringement.

- 14.5. **Compensation for Damages.** Notwithstanding of and without prejudice to any contractual penalty payable in accordance with Clause 14.2 of this Agreement and subject to the provisions of Clause 14.7 of this Agreement, 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.
- 14.6. **Attribution of Damages.** Any Damages suffered by either Party shall, for the purposes of Clause 14.5 of this Agreement, be reduced to the extent that the Damages are caused by or contributed to by any of the other Parties' own negligence or breach of its obligations under this Agreement.
- 14.7. **Limitation of Liability.** Notwithstanding anything to the contrary set forth in this Agreement, in no circumstances shall the Contractor or the Infrastructure Manager, or the 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 or any indirect or consequential loss arising out of or in connection with this Agreement. The Contractor's total liability for the Services under this Agreement shall in no circumstances exceed twice (2) the amount of the total value of the Agreement as per Clause 9.1.

15. Insurance

- 15.1. **Third Party Liability Insurance.** The Contractor shall insure its general liability for any loss, damages or omission caused to third parties by the Contractor (the "Third Party Liability Insurance") applicable to all Services and Works during the term of the Agreement, as well as during the Defects Claims Period as per Clause 11.2. The Third Party Liability Insurance shall include the coverage of the following risks: (i) losses resulting from damage to the property, including the property taken into the custody or care until the end of the Defects Claims Period, (ii) financial loss limited to the Total Value of the Agreement, (iii) sudden and unforeseen environmental pollution, (iv) subcontractor's liability (if there are Approved Sub-Contractors as per *Annex D: Approved Sub-Contractors and Staff*), (v) expenses due to reconstruction of the land, soil or other property, (vi) losses in regard to the damage to or destruction of the property, and (vii) non-material damage (moral damage). In case of statutory legal requirements related to specific types of insurance for the performance of Works forming a part of the Services according to the Applicable Law, the Contractor shall also provide additional insurance for these works or shall include respective extensions to Contractor's Third Party Liability Insurance contract.
- 15.2. **Obligation to Provide Insurance.** The Contractor undertakes to provide such Third Party Liability Insurance from insurance provider or providers compliant with the terms of Clause 15.8 based on commercially reasonable terms (including reasonable exclusions), and which is compliant with the Agreement conditions and Applicable Law requirements. The aggregate value of liability of the Third Party Liability insurance and for one occurrence shall be no less than twice (2) the amount of the total value of the Agreement as per Clause 9.1 during the entire term of the Agreement and the Defects Claims Period. The amount of liability for each insured event shall be no less than twenty percent (20%) of the total value of the Agreement as per Clause 9.1.
- 15.3. **Submission of Insurance Certificate.** Within twenty (20) days following the Effective Date, the Contractor shall submit to the Principal and the Infrastructure Manager the Third Party Liability Insurance certificate with

the insurer's confirmation regarding full coverage and validity of such Third Party Liability Insurance. The Contractor shall maintain the Third Party Liability Insurance in force as long as it is necessary to accomplish any obligations according to this Agreement. In addition, the Contractor shall provide not less than five (5) Working Days prior written notice to the Principal of any cancellation or material reduction in the Third Party Liability Insurance coverage. The Contractor is obliged to submit to the Infrastructure Manager and the Principal documents as per Clause 15.4 certifying the renewal or the issuance of a new Third Party Liability Insurance contract compliant with the Agreement terms within five (5) Working Days before the date of expiry of the previous insurance contract.

- 15.4. *Proof for the Payment in Full under the Third Party Liability Insurance Contract.* Together with the document indicated in Clause 15.3 of this Agreement and within the term as set under Clause 15.3 the Contractor shall submit to the Principal and the Infrastructure Manager payment evidences certifying payment for the insurance.
- 15.5. *Coverage of the Insurance.* The Third Party Liability Insurance contract shall be extended to cover the Contractor, its employees and Sub-Contractors Services and additional Services, as the case may be, under this Agreement, and shall be applicable at least in the territory, where the Services are provided and the Works are executed.
- 15.6. *The Extended Reporting Period.* The Third Party Liability Insurance Contract must provide for no less than twelve (12) month extended reporting period as of the Completion Date and the Defects Claims Period. The extended reporting period shall cover claims arising out of or in relation to an act or omission of the Contractor, its employees and Sub-Contractors occurring during the term of the Agreement, provided that the claim is reported by the Principal and/or the Infrastructure Manager within the extended reporting period.
- 15.7. *Validity of the Third Party Liability Insurance.* In each and every case of a renewed Third Party Liability Insurance Contract, the coverage must be continuous and must be inclusive of all periods from the Commencement Date to the issuance of a renewed insurance policy. It is the Contractor's obligation to constantly and proactively monitor the validity of the Third Party Liability Insurance contract's coverage and carry out all the necessary activities in order to ensure full Third Party Liability Insurance contract's coverage as per the Agreement's conditions.
- 15.8. *Requirements applicable to the Insurance Provider.* The Third Party Liability Insurance shall be taken out with an insurance company (re-insurance company), or financial institution, which is licensed to provide insurance services, and which has (individually or as a part of a group of companies, or where the company having substantial participation in the respective insurance company (re-insurance company, bank or financial institution) obtained a required minimum rating of BB+ (or equivalent) in accordance with Standard & Poor's rating, Fitch's rating or Moody's rating. The Principal and/or Infrastructure Manager has the right to request a replacement of the insurer in case the rating falls below the required minimum. The insurer shall be registered within the European Economic Area.
- 15.9. *Adjustments to the Insurance.* At the Contractor's request and to comply with fair market practice the above terms for the Third Party Liability Insurance may be further adjusted with the Principal's consent, upon the sole discretion of the Principal, to the extent the adjustment would not alter the substance and the objective of the above terms.

16. Performance Bond and Warranty Time Bond.

- 16.1. *The Performance Bond.* The Contractor shall provide to the Infrastructure Manager the financial security in the total amount of 10% of the Total Value of the Agreement as per Clause 9.1, and which shall be valid until the end of the Defects Claims Period ("the Performance Bond"). The Performance Bond shall be issued in the form of the first demand guarantee by the first class EU based bank or insurance company licensed for operations within the territory of the provision of the Services under this Agreement according to the sample of the Performance Bond (*Annex H: Sample Performance Bond*). The Infrastructure Manager shall be entitled to request to the Contractor to increase the amount of the Performance Bond in case of Variations to the Agreement up to the amended Total Value of the Agreement in accordance with the approved Variations and signed Amendments to the Agreement.
- 16.2. *The Warranty Time Bond.* The Contractor shall be entitled to reduce the Performance Bond to 5% of the Total Value of the Agreement following the Completion Date provided that the Deed of Acceptance is signed by all Parties stating that there are no Defects to be rectified as of the Completion Date. The Warranty Time Bond shall remain valid until the end of the Defects Claims Period.

17. Force Majeure

- 17.1. *Effects of Force Majeure.* Subject to the requirements set forth in accordance with Clauses 17.2 and 17.3 of this Agreement, each Party shall be relieved from liability for non-performance of its obligations under this Agreement to the extent that the Party is not able to perform such obligations due to a Force Majeure Event.
- 17.2. *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 17.2(a) of this Agreement.
- 17.3. *Notification Requirements.* Upon the occurrence of a Force Majeure Event the affected Party shall notify the other Party as soon as reasonably practicable and in any event within ten (10) Working Days of it becoming aware of the relevant Force Majeure Event. Such notification shall give sufficient details to identify the particular event claimed to be a Force Majeure Event and shall contain detailed information relating to the failure to perform (or delay in performing), including the date of occurrence of the Force Majeure Event, the effect of the Force Majeure Event on the ability of the affected Party to perform, the action being taken in accordance with Clause 17.2(a) of this Agreement and an estimate of the period of time required to overcome the Force Majeure Event. The affected Party shall provide the other Party with any further information it receives or becomes aware of, which relates to the Force Majeure Event, and shall provide an update on the estimate of the period of time required to overcome its effects.
- 17.4. *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).
- 17.5. *Mitigation of Effects of Force Majeure.* As soon as practicable after the notification specified pursuant to Clause 17.3 of this Agreement, the Parties shall use reasonable endeavours to agree appropriate terms or modifications to the Services to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Agreement.

18. Confidentiality

- 18.1. *Confidential Information.* “Confidential Information” means all information of a confidential nature relating to the Principal, the Infrastructure Manager 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, deeds, 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 and/or the Infrastructure Manager confirms in writing that it 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 electronically) prior to receipt from the Principal and/or the Infrastructure Manager, and was not previously acquired by the Contractor from the Principal and/or the Infrastructure Manager under an obligation of confidence; or
 - (c) was developed by or for the Contractor at any time independently of this Agreement.
- 18.2. *Undertakings with Respect to Confidential Information.* Subject to Clauses 18.1 and 18.3, the Contractor shall:
- (a) at all times keep confidential all Confidential Information received by it and shall not disclose such Confidential Information to any other Person; and
 - (b) procure that its affiliates, Approved Sub-Contractors 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.

- 18.3. *Permitted Disclosure.* Notwithstanding anything to the contrary set forth in accordance with Clauses 18.1 and 18.2 of this Agreement, 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 Clause 20 (*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 statutory obligation or the legally binding rules of any stock exchange or governmental or National Regulatory Authority; 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.
- 18.4. *Survival of Obligations.* The obligations of the Parties under this Clause shall survive for a period of no less than six (6) years following the day of expiry or termination of all and any of the obligations under this Agreement.
- 18.5. *Obligation of Confidentiality Applicable to Recipients of Confidential Information.* Whenever disclosure is permitted to be made pursuant to Clauses 18.3(a) or (c), the Contractor shall require that the recipient of Confidential Information to be subject to the same obligation of confidentiality as that contained in this Agreement.
- 18.6. *Certain Obligations on Termination of Agreement.* If this Agreement is terminated for whatsoever reason, the Contractor shall:
- (a) return to the Principal and/or the Infrastructure Manager all of the Confidential Information within the possession or control of the Contractor; or
 - (b) dispose of such Confidential Information using a secure and confidential method of disposal.
- 18.7. *No Press Release by the 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 and/or the Infrastructure Manager, depending on to whom this information pertains or who is the owner of such information (such consent not to be unreasonably withheld or delayed) as to both the content and the timing of the issue of the press release.
- 18.8. *Right to Publish.* For the avoidance of any doubt, the Principal and/or the Infrastructure Manager shall have the right to publish any of the documents, information or data provided by the Contractor to the Principal and/or the Infrastructure Manager during provision of the Services.
- 18.9. *Remedies.* The Parties acknowledge and agree that a breach of the provisions of this Clause 18 may cause to the owner of Confidential Information to suffer irreparable Damages that could not be adequately remedied by an action at law. Accordingly, the Contractor agrees that the owner of Confidential Information that is disclosed in breach of Clauses 18.2, 18.4, 18.5 or 18.7 may be entitled to any other remedy, including, inter alia, damages and injunctive relief, awarded by a court of competent jurisdiction.

19. Right to Audit

- 19.1. *Right to Audit.* Notwithstanding anything to the contrary set forth in this Agreement including, the Principal itself, a reputable external independent body or expert engaged and authorised by the Principal and/or the Infrastructure Manager 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.
- 19.2. *Obligation to Assist.* The Contractor shall provide all reasonable assistance to the Principal and/or the Infrastructure Manager, or the independent body authorised by the Principal, as the case may be, in carrying

out any inspection or audit pursuant to this Right to Audit. The Principal and/or the Infrastructure Manager shall be responsible for their own costs, or the costs incurred by the external independent body designated by the Principal and/or the Infrastructure Manager 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 and/or the Infrastructure Manager all of its additional reasonable costs incurred, provided such non-compliance is material.

- 19.3. *Survival of Termination.* The rights and obligations set forth in accordance with this Clause 19 shall survive expiration or termination of this Agreement for any reason and shall continue to apply during five (5) years following expiration or termination of this Agreement for any reason whatsoever.

20. On-the-spot-visits

- 20.1. *Right to perform on-the-spot visits.* By submitting a written notice five (5) Working Days in advance, but at the same time reserving the right of an unannounced on-the-spot visit without an advance notice, the Principal may carry out on-the-spot visits to the sites and premises where the activities implemented within the Agreement are or were carried out.
- 20.2. *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 as confidential. The Principal shall ensure that any authorised outside body or third party shall be bound by the same confidentiality obligations.
- 20.3. *Access to the information.* Contractor shall provide to the performer of the on-the-spot visit 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 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 the copying of the information and documents, with due respect to the confidentiality obligation.
- 20.4. *Checks and Inspections.* By virtue of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities, Regulation (EU, Euratom) No 883/2013 of the European Parliament and the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 and other legislation and documentation relating to European Union grant awarding and subsequent monitoring processes, the European Commission; the European Anti-Fraud Office; the European Climate, Infrastructure and Environment Executive Agency; the European Court of Auditors and other European Union institutions and bodies might perform checks, reviews, audits and investigations towards Contractor in case such activities are related to the use of grants awarded.

21. Governing Law and Resolution of Disputes

- 21.1. *Governing Law.* This Agreement shall be governed by and construed in accordance with laws of the Republic of Latvia.
- 21.2. *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 or other legal proceeding.
- 21.3. *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 all 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.

22. Miscellaneous provisions

- 22.1. *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 authorised 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.

- 22.2. *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 13.2 of this Agreement, 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.
- 22.3. *Notices.* Notices under the Agreement shall be in writing and will take effect from receipt by the Party to which the notice is addressed. For the sake of clarity, any notice by the Contractor shall be addressed to the Principal unless otherwise explicitly directed by the Principal. The Principal shall undertake to forward the notice by the Contractor to the Infrastructure Manager, where the requirement to receive the approval and/or the alignment by the Infrastructure Manager follows from the Agreement. Delivery can be made by hand, by post, or by e-mail to the Representative or Representatives of the other Parties. Notice shall be deemed to be received on the next Working Day after the notice is sent via e-mail or on the day following the 7 (seven) Working Days after the Notice have been handed over to the post.
- 22.4. *Relationship of the Parties.* The relationship between the Contractor, the Principal and the Infrastructure Manager under this Agreement is that of independent contractors. The Contractor (and the Contractor's Sub-Contractors) is not an employee of the Principal or the Infrastructure Manager, is not carrying out the regular business of the Principal or the Infrastructure Manager and is not subject to the same employment regulations as are applicable to employees of the Principal or the Infrastructure Manager. Each of the Parties shall be solely and entirely responsible for their own acts and the acts of their employees. No benefits, special considerations, or employer/employee-type provisions are provided by the Principal or Infrastructure Manager to the Contractor, the Contractor's employees, or the Contractor's consultants, or the employees of such consultants.
- 22.5. *Severability.* If any provision of this Agreement shall become illegal, invalid, void or unenforceable under the Applicable Law, 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.
- 22.6. *Successors and Assigns.* The Principal, the Infrastructure Manager and the Contractor each bind themselves, their successors, legal representatives, and assigns to the other Parties to this Agreement and to the partners, successors, legal representatives and assigns of such other Parties 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 Parties except for the cases provided under Clause 22.7 (Permitted Assignment).
- 22.7. *Permitted Assignment.* The Parties hereby acknowledge and agree that the Principal and/or the Infrastructure Manager is entitled to assign any rights and liabilities, including any present or future ownership rights on property acquired or confirmed upon it as the result of the execution of this Agreement to the Beneficiary or any other party designated by the Beneficiary.
- 22.8. *Amendments and Variations.* No amendment or variation of this Agreement shall be effective unless made in writing and signed by duly authorised representatives of all Parties, if not provided otherwise herein. The Agreement can be amended in compliance with the provisions of Article 61 of the Public Procurement Law of the Republic of Latvia.
- 22.9. *Entire Agreement.* This Agreement, and the Annexes hereto, constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes and extinguishes all and any prior drafts, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.
- 22.10. *Execution.* This Agreement is prepared and is executed as an electronic document.

Signed by:

For and on behalf of the
Principal:

[...]

For and on behalf of the
Contractor:

[...]

For and on behalf of the
Infrastructure Manager

[...]

THIS AGREEMENT IS SIGNED WITH QUALIFIED ELECTRONIC SIGNATURES AND CONTAINS A
TIMESTAMP

Annex A: Definitions and common terms

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

1. “Agreement”, this Agreement, together with all Annexes thereto.
2. “Affected Party”, any governmental institution, local authority, public and/or private enterprise, other legal or private entity (person) - utilities / asset owner and/or manager of the assets (networks and/or objects of power supply, gas, oil, water, drainage etc.), which are directly affected or linked to the designed layout of Rail Baltica railway line and shall be consulted during the provision of Services. The non-exhaustive list of Affected Parties is provided in Clause 1.5 of *Annex B: Technical Specification*.
3. “Applicable Law” or “Law”, any legislative act, regulation, decree, order, ordinance, statute, treaty, directive, judgment, or other legislative measure in force and applicable in the territory, where the Services are provided, i.e., in Estonia. For the avoidance of any doubt, by the way of exception these terms shall not include any legislative act or directive applicable to the application of public procurement laws and regulations, where the Governing Law as defined under Clause 21 shall apply.
4. “Approved Staff”, any person or organization listed pursuant to *Annex D*: , which is in a contractual relationship with the Contractor to provide a part of the Services.
5. “Approved Sub-Contractor”, any person or organisation listed pursuant to *Annex D*: , which is in a contractual relationship with the Contractor to provide a part of the Services.
6. “Benchmark”, a special facility installed primarily on the ground, in the soil or in a structure that allows its coordinates, heights and gravity values, determined by means of geodetic measurements, to be used as a reference for subsequent measurements (incl. surveying, mapping, civil engineering, geotechnical monitoring, etc). Either New Benchmark (CP0 or CP0H) to be installed or maintained existing geodetic Benchmark, the latest one being part of national or local (municipal) geodetic and/or height network, and which are required and shall be used for the needs of Project's Primary Geodetic Network (CP0).
7. “Beneficiary”, the Ministry of Climate of the Republic of Estonia.
8. “Commencement Date”, as set by the Time Schedule as per *Annex C: Schedule of Services*, and which is on or about the Effective Date.
9. “Completion Date”, as defined in accordance with Clause 11.6 and 11.7 of this Agreement, as appropriate.
10. “Confidential Information”, as defined in accordance with Clause 18.1 of this Agreement.
11. “Contractor”, SIA “GEODEZISTS”, the Limited liability company as further specified in the Preamble of this Agreement, which is employed by the Principal as an independent professional contractor to perform the Services.
12. “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 and payroll expenses of employees and other personnel, as well as management costs of the Contractor;
 - (iii) payments to the Approved Sub-contractors for Works relating to the Services;
 - (iv) costs of all employee benefits and taxes, including social security and similar contributions, and other benefits attributable to the employment;
 - (v) costs, including logistics, loading / unloading and maintenance of equipment and tools;
 - (vi) 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;
 - (vii) other transportation costs incurred in connection with the Services;

- (viii) 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;
 - (i) any taxes or fees related to the Services, imposed by any governmental or local authority;
 - (ix) costs of telecommunications and internet services attributable to the Services;
 - (x) costs of any data processing services used in connection with the performance of the Work required under this Agreement; and
 - (xi) losses and expenses, not compensated by insurance, sustained by the Contractor in connection with the Works under this Agreement (if applicable), provided they resulted from causes other than the fault or neglect of the Contractor.
13. "Corrective Period", as defined in accordance with Clause 13.2 of this Agreement.
14. "Cure Period", as defined in accordance with Clause 11.1 of this Agreement.
15. "Damages", any cost, claim, damage, demand, loss, expense or liability incurred by the relevant Party or Person.
16. "Deed of Acceptance", as defined under Clause 0 of the Agreement and substantially in the form as provided in *Annex E: Deed of Acceptance*.
17. "Defect", is a part of the Services which is not in accordance with the

18. *Annex B: Technical **Specification*** and/or the
19. *[...]*
- 20.

21. **Annex K: Contractor's Proposal**, and/or the Applicable Law and/or Good Industry Practice.
22. "Deliverable", any information, notes, material, drawings, records, reports, documents and/or other items which the Contractor is required to deliver to the Principal and which is specified in detail under Clause 3 "Work Process and Deliverables" of *Annex B: Technical Specification*. The Deliverable or Deliverables shall include the Final Report to be delivered to the Principal upon completion of the Services and as aligned with the Affected Parties and National Institutions for each Phase of the Services completed, as well as any and all underlying documents such as photos, schemes, coordinates, etc. as part of the Services and/or annexed to the Final Report.
23. "Documentation", all records, correspondence, and files of the Contractor, its employees, engineers, and consultants pertaining to the Project. The terms shall also include any underlying documents, drawings, data, files, photos, schemes or coordinates or similar or alike means of evidence forming part of the Deliverables.
24. "Effective Date", the date as per the timestamp of the last electronic signature of the authorised representative of a Party to the Agreement as per Preamble to this Agreement.
25. "EUR", and "*euro*", the official currency of the eurozone, officially known as the euro area.
26. "Final Inspection", the inspection for the completed Works on Site before completion of Phase 4. The physical inspection on Site may be complementary to or may be substituted entirely by the Documentary checks upon the Principal's and/or Infrastructure Manager's sole discretion. The Deed of Acceptance following the Final Inspection shall be signed by and on behalf of the Contractor and the Principal, and shall be pre-aligned with the Infrastructure Manager.
27. "Final Deadline for Completion", the term shall have the meaning as defined under Clause 4.4 and shall refer to the completion of the Services in their entirety.
28. "Final Report", the final Deliverable under the present Procurement in accordance with

29. **Annex B: Technical Specification** to be produced and delivered by the Contractor upon completion of the Services in accordance with the terms of this Agreement.
30. “**Fee**”, as specified in accordance with Clause 9.2 of the Agreement.
31. “**Force Majeure Event**”, any of the following events:
 - (i) an act of the public enemy or war (declared or undeclared), threat of war, revolution, riot, insurrection, civil commotion, demonstration or sabotage;
 - (ii) an act of vandalism or accidental damage or destruction of machinery, equipment, track or other infrastructure;
 - (iii) a natural disaster or phenomena, including extreme weather or environmental conditions (such as lightning, earthquake, hurricane, storm, fire, flood, drought or accumulation of snow or ice);
 - (iv) nuclear, chemical or biological contamination;
 - (v) strike, lockout or other industrial action other than involving the Contractor, the Principal or the Beneficiary.
32. “**General Environmental Requirements**”, as defined and elaborated under *Annex F: General Environmental Requirements*.
33. “**Geodetic Network Benchmark**”, existing (national) and new CP0 geodetic network Benchmarks to be investigated, designed, re-constructed and installed as part of the RB Geodetic Reference Network (CP0) in accordance with the Applicable Laws and *Annex B: Technical Specification*.
34. “**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 the Work, Services or services of a similar size, nature, scope, type and complexity, complying with Applicable Law, applicable Standards and published codes of practice.
35. “**Health & Safety Standard**”, as defined and elaborated under *Annex E: Health and Safety Standard in Rail Baltica Global Project*.
36. “**Intellectual Property**”, all intellectual property rights in any part of the world in respect of any documentation or information provided by the Contractor to the Beneficiary, 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.
37. “**Intellectual Property of the Contractor**”, all Intellectual Property owned or licensed to the Contractor with a right to sub-license.
38. “**Objection Notice**”, as defined in accordance with Clause 11.6 of this Agreement.
39. “**Infrastructure Manager**”, the Implementing Body, who has been appointed either in Law or by way of authorisation as the manager of the future infrastructure, and who shall acquire the ownership rights on the New Benchmarks either on temporary or permanent basis, in its own name or on behalf of the respective State.
40. “**Party**” and “**Parties**”, the Principal, the Beneficiary and the Contractor and include their respective successors in title, permitted assigns and permitted transferees.
41. “**Person**”, shall include any natural person, company, corporate body, 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.
42. “**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).
43. “**Principal**”, RB Rail AS as specified in the Preamble of this Agreement.
44. “**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.

45. “National Regulatory Authority”, the competent institution or body with the authority granted under the Applicable Law or regulations to act and issue binding rulings within the subject matter.
46. “Representative”, an officer, employee or individual appointed by the Contractor and/or the Principal to serve as its authorised representative toward the supply or receipt of the Service and indicated under [...]

48. **Annex L: Representatives.**
49. “Right of Partial Acceptance”, as defined in accordance with Clause 13.7 of this Agreement.
50. “Services”, the joint Rail Baltica chainage and Geodetic reference network Investigation study and Location Design as provided under this Agreement and further described under

51. *Annex B: Technical Specification*;
52. “Services Milestone”, the date for delivery of one or more Deliverables, as set out in the

53. *Annex B: Technical Specification* and

-
55. **Annex C: Schedule of Services;**
56. "Site" or "Sites", the physical site (or sites), where the installation and maintenance Works of Benchmarks are carried out in the geographic territory of the State, and the actual borders of which shall be set by the Contractor subject to receipt of the required permissions or approvals by the respective Affected Parties, as well as the production site, where the Benchmarks are being produced;
57. "State", the territory of the Republic of Estonia as defined under the Applicable Law.
58. "Time Schedule", the detailed schedule of Works and Services setting the Services Milestones and the Final Deadline for Completion of Services in their entirety and/or Service as set under *Annex C: Schedule of Services*.
59. "VAT" or "Value Added Tax", the value added tax.
60. "Variations", a variation to the Agreement or any part thereof mentioned in Clause 5.1.
61. "Warranty Period", applies to Benchmarks and the Works and shall have the meaning as defined as per Clause 10.
62. "Warranty Time Inspection", the term has the meaning as defined under Clause 6.6.
63. "Working Day", any day (other than Saturday or Sunday) on which banks in the Republic of Latvia are open for conduct of business.
64. "Works", all activities, including the preparatory, auxiliary and of either temporary or permanent character to complete either (1) Maintenance of existing Benchmarks as per Clause 3.2 of Annex B: Technical Specification or (2) installation of New Benchmarks, or both (1) and (2) together.

Annex B: Technical Specification

[...]

Annex C: Schedule of Services

1. Service commencement date: Effective Date (ED¹)

2. Deliverables (Clause 4.4):

Stage	Description of activity	Milestones																		Achievable result of the activity
		*Weeks from Commencement Date																		
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	
1	Preparation phase - obtaining approvals and permits required for the installation of New Benchmarks and/or the maintenance of existing Benchmarks; and preparing and delivering samples of Benchmark sketches, photos and panoramas to the Principal; and coordination of the production and installation methodology of Benchmarks and their external elements with the Principal			Activity			Approval													Necessary approvals for Benchmark installation and maintenance are obtained, and examples of sketches, photographs and panoramas are delivered and approved by the Principal, and production and installation methodology of Benchmarks and their external elements have been approved by the Principal
2	Phase 1 - Production of New Benchmarks and external elements of Benchmarks			Activity			Approval													The Benchmarks and external elements of the Benchmarks produced have been approved by the Principal
3	Phase 2 - Maintenance of existing Benchmarks, collection of in situ information describing the locations of the Benchmarks and the preliminary measurement of Maintained Benchmarks				Activity			Approval												The existing Benchmarks are maintained and preliminary measured; Completed maintenance work have been approved by the Principal
4	Phase 3 - Installation of New Benchmarks, collection of in situ information describing the locations of the Benchmarks and the preliminary measurement of New Benchmarks								Activity											New Benchmarks are installed and preliminary measured
	Phase 4																			
5	Preparation and delivery of the draft version of the Final Report and Review by the Principal and the Owner								Activity											Draft version of the Final Report is delivered and reviewed by the Principal and the Owner
6	Completion and delivery of the Final Report																Activity			Final Report is delivered to the Principal
7	Review and approval of the Final Report by the Principal																	Approval		Final Report is approved by the Principal

3. The Principal will accept all Deliverables in accordance with the Clauses 11.3 - 11.8 of the Agreement only if they will conform with the quality and other requirements defined under *Annex B: Technical Specification*.

¹ Effective Date of the Agreement

Annex D: Deed of Acceptance

No [INSERT NUMBER]

Date: [INSERT DATE]

Location: [INSERT LOCATION]

For: [INSERT PRINCIPAL], registration number [●], legal address: [●] (the "Principal")

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

Whereas:

- (A) the Principal, the Infrastructure Manager and the Contractor have entered into the Agreement [●];
- (B) one or more Services Milestones have been met and/or Deliverables of the Services have been completed or the Services have been fully completed by the Contractor;
- (C) as stipulated by Clause 4.4 of the Agreement, completion of a Services Milestone/Deliverable shall be evidenced by means of the Contractor issuing a signed Deed of Acceptance;
- (D) as per Clause 11.3 of the Agreement the Principal following the reception of the Deed of Acceptance shall review the submitted Deed of Acceptance and either sign the Deed of Acceptance conforming the compliance of the Services rendered or raise objections by issuing an Objection Notice.

The Contractor hereby confirms that following Deliverable has/have been supplied on [INSERT DATE], as specified in accordance with the Agreement, or the Services have been completed in full: [DESCRIBE IN REASONABLE DETAIL THE DELIVERABLE SUPPLIED AND ATTACH THE RESPECTIVE SUPPORTING DOCUMENTATION].

By signing this Deed of Acceptance the Principal confirms in accordance with Clauses 11.3 and 11.6(b) of the Agreement its satisfaction with the result of the Deliverable submitted in accordance with the terms and conditions of this Agreement and *Annex B: Technical Specification*, and the Principal accepts the respective Deliverable in its entirety or partly as specified in Clause 11.6(b) of the Agreement.

The Principal also confirms that [the Services Milestone] OR [the Final Deadline for Completion] [have been met, and there have been no delays on the part of the Contractor as per the Time Schedule as set in accordance with *Annex C: Schedule of Services*.]

OR

[have not been met, and the following delays of [the Service Milestones] or [the Final Deadline for Completion] to be met under Clause 4.4 are hereby being notified to the Contractor: in total [●] days [TO BE FILLED IN BY THE PRINCIPAL] (the "Delay"). Following the Delay, the total amount of Contractual Penalty as per Clause 14.2 is [●] EUR ([●] Euros).]

Additionally, the Principal certifies that all the necessary authorisations for the acceptance of the Deliverable have been duly received.

Signatures:

For and on behalf of the Principal

[●]

For and on behalf of the Contractor

[●]

Annex E: Construction Health and Safety Standard in Rail Baltica Global Project

[...]

Annex F: General Environmental Requirements in Rail Baltica Global Project

GENERAL ENVIRONMENTAL REQUIREMENTS IN RAIL BALTICA GLOBAL PROJECT

- A. This Section explains the main environmental requirements for the stages which include the setup and maintenance of the Works Site.

SUSTAINABLE APPROACH

- A. The Contractor shall ensure sustainable approach and good practice are followed in order to reduce the Project impact on the environment.
- B. Sustainable approach shall include the following steps, but not be limited to:
- Identify the environmental obligations of the project specific section - this step should include a review of the Applicable Laws and Regulations, including the requirements imposed in accordance with the binding regulations by the Affected Parties, EIA requirements (including actions required within any environmental action plan produced).
 - Identify the environmental risks (including potential emergencies) particular to the Site specifics – this step includes: development of an environmental risk register for the Site (i.e. assessment of the environmental risks); during Site induction, alert and train all Site personnel on the risks associated with the Works on Site; Discuss and agree potential pollution incident management procedure(s).
 - Identify environmental responsibilities – this step includes the procedure of defining the environmental responsibilities of all personnel on Site, including those who are involved in implementing and monitoring initiatives.
 - Establish an environmental management plan (EMP) for Works Site - information gathered in Steps above can be used to form the basis of the construction Site EMP, important to note - a Site waste management plan (SWMP) shall be developed as part of the Site EMP.
 - Energy efficiency – this step includes action plan development for reducing energy consumption and waste generation on Site. Also usage of renewable and recyclable resources where is possible.
 - Usage of more environmentally friendly equipment – minimum, requirements for equipment and machinery - shall be technically in order and do not exceed noise, vibration limit values. Innovative technologies with more environmentally friendly fuels are priority.

PREPARATION FOR WORKS ON SITE

ACCESS TO THE SITES

- A. The transportation of materials and equipment shall be organized in the most sustainable way.
- B. Transport routes to the Works Sites shall be planned so as to use the existing road infrastructure as much as possible.
- C. Railway corridor shall also be used to transport the materials, equipment and/or machinery as far as possible.
- D. All the necessary measures shall be performed in a timely manner to ensure road pavement quality or capacity, when required.
- E. Owners or operators of the relevant land plots and / or traffic infrastructure shall be informed about any disturbances during the Works, including the preparation phase, and during the period of Works.

REQUIREMENTS FOR WORKS SITE LOCATIONS

- A. Works Sites' bases shall be located close to the state roads and in areas where deforestation and large Site preparation works are not required.

- B. Works Sites shall be kept as compact as possible; driveways and walkways shall not be obstructed.
- C. It is prohibited to install Sites for construction materials, excavated soil storage, construction equipment and waste, parking lots in the following locations: within protected areas, natural habitats of EC importance, protected forest land, coastal protection strips of surface water bodies, in the vicinity of residential areas without a prior written consent of all owners of those areas.
- D. A temporary Site shall be installed in such a way as not to damage the plants growing in the area that are not intended to be removed and not to contaminate the soil, groundwater and the river.
- E. The work shall be organized in stages. As a result, the land area where the herbaceous cover will be removed during the same period, as well as the time between the removal of the herbaceous cover and open surface stabilization, could be reduced.
- F. Before commencement of Works, hazardous areas on the Works Site, where risk factors are either constantly present or may occur, shall be identified. Hazardous areas in which hazardous and/or harmful factors are constantly present shall be fenced by protective enclosures in order to prevent persons not authorized to enter such areas from entering.

INSTALLATION WORKS PROCESS

WORKS SITE AND WORKS ORGANIZATION:

- A. Sites for placing construction materials and machinery shall be possibly located outside the protection zones of watercourses and other objects and in the way that residential or public buildings are not affected.
- B. Whenever possible, movement of construction machinery and equipment shall be only within the Works Site boundaries. There shall be activities in place to avoid negative impact of those movements on protected habitats. Temporary Sites of equipment, machinery and materials shall be located respecting the areas of specially protected habitats.
- C. Installation and maintenance Works shall be timely approved with the respective local municipality. Whenever possible, Works and transportation of construction materials and management (sorting of) waste shall be carried according to country specific EIA requirements.
- D. When carrying out earthworks, pits, trenches and other excavations, where there is motor or pedestrian traffic, shall be fenced in accordance with the established requirements.
- E. Such an engineering solution shall be chosen which will not affect the littoral area and banks of a river.
- F. Works shall be carried out only outside bird nesting period in RB sections adjacent to Natura 2000 territories, or inside Natura 2000 territories which have been created for nature protection (including bird protection). This requirement shall follow the conditions set by country specific EIA.
- G. Archaeological supervision of installation and maintenance Works shall be ensured where needed.

CONSTRUCTION MATERIALS AND EQUIPMENT STORAGE

- A. Storage places shall be selected properly, and the surface of storage area shall be coated with preventive oils spillages measures.
- B. It is forbidden to store construction materials and equipment in protection zones of natural objects and inside nature protection areas.

WORKS SITE CLEANING AND WASTE MANAGEMENT

- A. The Contractor shall ensure daily cleaning and collection of material residues, debris and waste throughout the Works' period.

- B. The Contractor shall be responsible for keeping clean the Works' Site at all times from waste and debris, and shall ensure removing of all debris each day. In addition, the Contractor maintains all temporary storage areas and rooms, if any, free of waste and dust every day.
- C. The dusty material shall be stored in such a way as to avoid dust-blowing by the wind.
- D. Debris shall not accumulate or endanger safety.
- E. The Principal and/or the Infrastructure Manager's and/or the owner of the area shall, if necessary, issue instructions to strengthen the maintenance of cleanliness and order on the Works Site.
- F. Each Approved Sub-Contractor shall be responsible for ensuring that all working areas are kept free from obstructions, surplus materials and unused equipment which may damage visual views, create obstacles and/or endanger the life of all persons who could at all times be in the appropriate places, but in the event of failure to comply with those requirements, the Contractor shall ensure that proper remedying measures are taken.
- G. The Contractor shall provide all containers with lid in such quantity as to be sufficient for the planned Works.
- H. Containers shall be accessible on Site during the execution of Works on Site in sufficient quantity to ensure selective collection of debris and waste:
 - a. Scrap metal (for recycling purposes);
 - b. Glass (for recycling purposes);
 - c. Paper (for recycling purposes);
 - d. Plastic (for recycling purposes);
 - e. Moist biological waste;
 - f. Hazardous waste;
 - g. Other types of packaging.
- I. Cleaning materials for cleaning of structures and equipment shall be used in accordance with the instructions of the manufacturer of the product.

WASTE MANAGEMENT

- A. Waste Sites are prohibited to be installed in protected areas, areas of cultural heritage objects, forest land, habitats of European Community importance, in the coastal protection zone of surface water bodies.
- B. The Contractor shall ensure that waste storage places are protected from weather conditions such as snow, wind, rain, etc.
- C. All solvent waste, oily rags and flammable liquids shall be stored in fire resistant covered containers until removed from the Works Site.
- D. Priority-wise, the waste management hierarchy shall be adhered to by managing waste in the following order: preventive waste avoidance, preparation for re-use, recycling, other use (e. g. for energy generation), landfilling with a prior separation of suitable waste for recycling or other type of use.
- E. Waste shall be sorted, temporarily stored, stored, collected, transported and treated in such a way as not to negatively affect public health and the environment. The loading of construction waste into vehicles shall be organized in such a way as to protect the Works Site and the adjacent area from dust and noise, and the transportation of the waste from the Site shall not pollute the environment, i.e. the waste shall be transported in covered vehicles or by other means which would ensure that no pollution shall be caused by the transported waste or its parts.
- F. All wastes (incl. hazardous waste) shall be sorted and handled according to Applicable Law and Regulations governing the environmental protection issues.

- G. The burning or similar means of disposal of waste or excess material on the Works Site is strictly prohibited.
- H. The Contractor shall export all debris, soil and waste from the Works Site in accordance with the requirements of the Applicable Law.
- I. The Contractor shall confirm the waste disposal sites with the responsible authorities and pay all disposal costs.
- J. The Principal and/or the Infrastructure Manager shall have the right to require and the Contractor shall, within 24 hours of reception of the request, provide proof that all the waste has been transferred to a municipality approved site.
- K. The Contractor shall comply with the rules and regulations by the Affected Parties with respect to the control and disposal of the debris.
- L. The Contractor shall ensure the authorization, maintenance and operation of an approved collection of waste, surface water drainage and sewage removal system during the term of the Works, as well as their removal, deodorization, sterilization and overfilling where required and/or as instructed by the Principal or the Infrastructure Manager.
- M. The Contractor shall have an agreement with certified waste management company for managing and transporting the waste.
- N. The cutting materials shall be handled as follows: logs and firewood are sorted according to timber species, assortments, and the cutting residues are transferred to waste managers and / or taken to a green waste composting site, if not stated differently by the Applicable Law of the State where the Works are being performed.

EROSION AND SLUDGE CONTROL

- A. The Works shall be planned and carried out with methods to control water discharge from excavations and mound surfaces. Prevent erosion and deposits.
- B. The amount of soil exposed at the same time should be minimized.
- C. Temporary means such as mound and drainage ditches should be provided to prevent water escaping.
- D. The location of the waste container site should be carefully selected.
- E. Earthworks shall be inspected regularly for signs of erosion and tender. Take corrective action immediately.

WATER DISCHARGE CONTROL

- A. Contaminated wastewater shall not be discharged to the environment from the Works Sites. The Contractor shall define the most suitable local solution for discharge of the wastewater from each Works Site. Wherever it is possible, connection to the centralized sewerage system shall be used.
- B. The Contractor shall ensure Works Site alignment and all necessary drainage to prevent the accumulation of stagnant water and to remove surface effluent away from the construction pits, trenches, adjacent properties and public traffic until acceptance of the permanent drainage.
- C. Temporary drainage shall be removed after acceptance of works or as instructed by the Principal and/or the Infrastructure Manager.
- D. Maintain the construction pits and trenches free from water. Ensure and operate the pumping equipment with sufficient power to control the flow of water.
- E. It is necessary to provide the pipelines for draining off water in such a way as to prevent erosion.
- F. Equipment and installations shall be removed when they are no longer needed.

WATER PROTECTION

- A. The Contractor shall take all precautionary measures to minimize the impact and pollution of water.

- B. The Contractor shall not allow the release of petroleum products and other chemicals, and water which is discharged into water bodies shall be free of harmful substances and chemicals.
- C. The prevention of oil and chemical discharges shall be included in the working methods.
- D. The Contractor shall be responsible for promptly notifying each and all incidents to the Principal and/or the Infrastructure Manager, and the collection of all residual objects and materials.
- E. All materials in water tanks shall be collected promptly and disposed of appropriately. If the Contractor is unable to collect any of the materials entering the water, the Principal and/or the Infrastructure Manager may instruct third party to collect these materials, equipment and tools on behalf of and at the cost of the Contractor. Such measures shall not relieve the Contractor of his obligations under the Agreement. The Contractor shall be responsible for all the consequences which may arise from the materials entering the water.

SOIL MANAGEMENT

- A. The Contractor shall remove the fertile soil layer before starting earthworks and with a prior selection of the storage location.
- B. The Contractor shall prepare storage places for construction materials and waste.
- C. The Contractor shall not use heavy machinery in wet soil conditions in the places where the fertile soil layer has not yet been removed. This could lead to the reduction of soil ability to absorb wastewater.
- D. The Contractor shall minimize the area with open soil during installation and maintenance Works. The quantity of simultaneously maintained non-stabilized areas will be as little as possible.
- E. In order to protect the slopes from erosion and washing off, protective geotextile coverings or temporary seeding shall be used for surface stabilization (temporary slope stabilization measures shall be used when open slopes are planned to be kept for a month or more).
- F. The excavated ground shall be used as much as possible to rebuild the earth surface layer. Soil quality control shall be ensured in areas crossing or near contaminated or potentially contaminated sites. Solutions for use/store of the unused soil shall be developed by the Contractor.
- G. Construction works (including building or rebuilding the necessary utility network and communication lines) shall be planned in the proper manner to avoid extra excavation works after the end of construction works.

VEGETATION MITIGATION MEASURES

- A. Plants that are not planned to be removed (and that may be saved) will be saved during the Works.
- B. The plants that are not planned to be removed will be protected during the Works on the Site, the protection of plants during the Works is carried out in accordance with the requirements established by the Applicable Laws and Regulations in force and the Technical Specification, as well as any binding regulations issued by the Affected Party or Parties.

FAUNA PROTECTION

- A. Works shall be carried out according to the approved EIA, SEA and Applicable Law and Regulations in force. In case of not foreseen impact to the protected species – additional mitigation measures shall be adopted immediately.
- B. General requirements are following:
 - a. Environmental monitoring shall be carried out during the Works.
 - b. The Contractor is obliged to have a specialist or consult with an external expert with a degree in ecology, environmental science or biology participate in during the installation and maintenance Works near protected territories.
 - c. Monitoring of protected species shall be carried out during the Works on Site.

POLLUTION CONTROL

- A. To safely collect oils (lubricants) from mechanisms in order to avoid the contamination of the surface water and soil. To anticipate measures for accidental spillage of the oil (from mechanisms) and fuel. During the construction, oil absorbing material shall be kept (sawdust, sand, sorbents), special containers for the oil collection.
- B. In case of an accident, the activities shall be planned and implemented immediately to maximally contain the spillage in the environment, including inflow into the underground waters, irrigation drainage channels and surface waters. In an even of a pollution spillage detection, the Contractor shall immediately inform the Contracting Authorities' project contact person for agreeing on further actions.
- C. Such solutions and methods shall be chosen which will not cause the pollution of groundwater horizons. In areas where groundwater needs to be extracted (deep excavations), groundwater volume quantifications shall be completed, and the most appropriate water drainage solutions shall be justified within the technical design. Drainage shall not affect watercourse water quality and hydrological regime. Where necessary, extracted water shall be settled as well as pollution control of the water shall be ensured in contaminated areas.
- D. The Contractor shall provide methods, tools and equipment to prevent pollution of the soil, water and air from the discharges of poisonous, toxic substances and contaminants which are caused by the Works.
- E. The transportation of mechanisms, raw and other materials by heavy transport to the Works Site and the removal of waste from the Site shall be organized and performed without polluting the environment and without exceeding the noise and air pollution norms regarding residents living in the vicinity through whose residential environment the transportation is planned. The transportation routes shall be selected as far away from residential environments as possible. If an exceeded pollution (especially particulate matter and noise) during the transportation is predicted, temporary protective measures (e. g. noise barriers, irrigation of gravel cover, etc.) shall be employed.

CONSTRUCTION MACHINERY

- A. Movement of heavy construction machinery and equipment shall be avoided in moist forest or grassland areas, where such movement affects micro-relief and the content of vegetation.
- B. Construction machinery shall be well maintained during entire installation Works.

COMPLETION OF INSTALLATION AND MAINTENANCE WORKS

- A. After the installation and maintenance Works are finalized relevant recultivation measures shall be taken to ensure that the area impacted by the construction process is restored to the condition, which is not worse than it was before the construction started.
- B. Soil layer from the same areas shall be used for the recultivation.

Annex G: Acknowledgement on compliance with the Construction Health and Safety Standard in Rail Baltica Global Project and General Environmental Requirements**Acknowledgement*****On compliance with the Construction Health and Safety Standard in Rail Baltica Global Project (Annex E to the Agreement) and General Environmental Requirements in Rail Baltica Global Project (Annex F to the Agreement)***

Hereby “name of legal entity” acknowledges that before the commencement of installation and maintenance Works on site (hereinafter – “the Works”) and all through the execution of the Works, management of health and safety (H&S), Environmental protection, fire safety and electric safety are established and implemented in full compliance with the Applicable Laws and Regulations, as well as any requirements imposed by the Affected Parties, and complies with the following:

- 1) Will develop, implement and maintain consistent H&S action plan, and shall ensure that it shall be observed by any personnel and staff present at the Works’ site with the aim to avoid any injuries or/and fatalities;
- 2) The Environmental Management Plan (EMP) for Works on site, which shall apart from other issues in particular include also Site Waste Management Plan (SWMP), shall be developed and observed by the Contractor and any Approved Sub-Contractors at all times.
- 3) Types of work to be performed in accordance to this Agreement are listed under the Scope of Services, and the minimum requirements to be observed and followed are listed in Annex E “*Construction Health and Safety Standard in Rail Baltica Global Project*” and Annex F “*General Environmental Requirements in Rail Baltica Global Project*” of the Agreement;
- 4) Risk assessment for the listed types of Work is carried out and shall be recorded;
- 5) All “name of legal entity” employees involved in delivery of this Agreement are trained in H&S and Environmental protection matters applicable to the Scope of Services performed, and their knowledge is tested and records available;
- 6) Safe work performance, fire safety and electrical safety instructions are designed, signed off by the Approved Staff and Approved Sub-Contractors, as well as all employees and personnel involved in delivery of this Agreement are trained accordingly at sufficient level and knowledge is tested;
- 7) All employees involved in delivery of this Agreement have undergone mandatory health checks;
- 8) In case of accident, incident or high potential near miss on the work site “name of legal entity” will inform Principal’s contact person or H&S manager over the phone or e-mail immediately however in 4 hours latest;
- 9) “name of legal entity” site manager or project manager will be present at work site at all times as work is in process;
- 10) All “name of legal entity” employees will be equipped with necessary personal protective equipment (PPE) at all times with no exceptions being on the work site. Minimum PPE requirements on the work site: a) Hi-Viz vest or jacket (EN 471); 2) safety boots (S1P or S3 or S5). In addition to minimum stated PPE list employees must be equipped with PPEs according to risk assessment and risk control requirements of the Contractor;
- 11) Contractor’s Project Manager shall be responsible for removal of all temporary structures, equipment and tools immediately after the completion of Works on site, as well as ensure the waste disposal on a daily basis during the execution of installation and maintenance Works and upon completion of Works;
- 12) “name of legal entity” H&S representative runs safety walk and records results on a daily basis, and shall present such records, when requested by the Principal and/or the Infrastructure Manager;

- 13) Principal's representatives (H&S manager, project team members etc.) will have access to the Works' site at all times to run safety walks and checks. Site visits shall be subject to previous appointment and confirmation with the Contractor's Project Manager.

Principal or the Infrastructure Manager has all rights to request and receive evidences to prove all above stated with notice of 1 (one) working day in advance.

THE ACKNOWLEDGMENT IS DULY SIGNED ELECTRONICALLY WITH THE QUALIFIED ELECTRONIC SIGNATURE AND CONTAINS THE TIME STAMP

On behalf of the Contractor,

[..]

Annex H: Sample Performance Bond

To: Osaühing Rail Baltic Estonia, a limited liability company registered in the Estonian Commercial Register, registration No 12734109, registered address at Veskiposti tn 2/1, 10138, Estonia, and

who is referred to as the “**Infrastructure Manager**”.

Guarantor: *[identify bank or insurance company (re-insurance company) or financial institution, by specifying its full name and legal form, registration number, legal address, e-mail]*

Applicant: *[specify Supplier's full name and legal form, registration number, legal address]*

Date: *[insert date]*

Underlying Relationship: Agreement for the establishment of Rail Baltica Primary CP0 Geodetic and Levelling Network Benchmarks In the territory Of Estonia between the RB Rail AS (as the Principal), the Infrastructure Manager and the Applicant *[insert the date of the Agreement]* (hereinafter the “**Agreement**”) and obligations of the Applicant to perform the Agreement in accordance with the terms of the Agreement.

Guarantee Amount and currency: [EUR _____ (_____ euros)].

Document in support of the demand for payment: Original of the statement issued by the Infrastructure Manager that shall be presented as follows:

- Paper form (written) demand signed by an authorised representative of the Infrastructure, which shall be sent by courier to the legal address of the Guarantor with a copy to the legal address of the Applicant; or
- Electronical form (scanned and signed “.PDF” file, whereas the file may be in a ASIC-E or similar container, to the e-mail of the Guarantor as indicated above by using qualified electronic signature with a time stamp; the document shall be signed by an authorised representative of the Infrastructure Manager; or
- Authenticated SWIFT message using SWIFT submission system (not necessarily, but can be combined with scanned and signed “.PDF” file, whereas the file may be in a ASIC-E or similar container and secured by using qualified electronic signature with a time stamp); the document shall be signed by an authorised representative of the Infrastructure Manager.

Language of all required documents: the English language.

Expiry: *[insert date]*.

As Guarantor, we hereby irrevocably and unconditionally undertake to pay to the Infrastructure Manager any amount, all payments together up to the Guarantee Amount, upon presentation of the first complying demand, in the form of presentation indicated above and supported (document in support of the demand for payment), in any event, by the statement, whether in demand itself or in a separate signed document accompanying or identifying the demands, indicating in what amount the Applicant is in breach of its obligations under the Underlying Relationship. Any demand under this Guarantee must be received by us on or before Expiry indicated above.

We further agree that no change or addition to or other modification of the terms of the Agreement shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition or modification. We hereby also waive any options, possibilities or rights to reject or suspend the demand if it is issued in accordance with this document. The Purchaser or the Beneficiary shall not be obliged to justify its demand. The Purchaser and the Beneficiary is entitled to transfer (assign) the Guarantee (the rights arising therefrom) to RB Rail AS. The Guarantor has been notified that the Infrastructure Manager may require the Applicant to extend the Guarantee or increase the Guarantee Amount.

Applicable law and Disputes: THIS GUARANTEE IS SUBJECT TO THE UNIFORM RULES FOR DEMAND GUARANTEES (URDG) 2010 REVISION, ICC PUBLICATION NO 758 (ICC RULES). Article 33 of the ICC Rules does not apply in case any or all rights under this Guarantee or the Guarantee as a whole are assigned, pledged or transferred. Matters which are not covered by the above mentioned ICC Rules shall be decided according to Law of the Republic of Latvia. For avoidance of doubt, Articles 1692 to 1715 of the Civil Law of Latvia do not apply to this Guarantee, as this Guarantee does not constitute a surety (in Latvian – *galvojums*) and instead this Guarantee constitutes a separate and independent (not accessory) obligation of the Guarantor. Any dispute, controversy or claim arising out of or relating to this Guarantee shall be settled by the competent Court of the Republic of Latvia.

This Guarantee cannot be changed or terminated without the prior written consent of the Infrastructure Manager.

This Guarantee is executed in two originals – one for the Infrastructure Manager and one for the Guarantor.

SIGNATURE AND SEAL OF THE GUARANTOR

Date

.....

Name of bank or insurance company (re-insurance company) or financial institution

.....

Address

.....

Annex I: Approved Sub-Contractors and Staff

A list of Sub-Contractors the Contractor anticipates to engage toward the provision of the Services:

[...]

Annex J: Clarifications to the Contractor's Proposal

[...]

Annex K: Contractor's Proposal

[...]

Annex L: Representatives

[...]