

*Approved by RB Rail AS
open competition "Design guidelines for Rail
Baltic / Rail Baltica Railway" procurement
commission session No 1 minutes on 04/01/2017*



REGULATION

for open competition

"Design guidelines for Rail Baltic / Rail Baltica Railway"

(identification No: RBR 2017/1)



Co-financed by the European Union
Connecting Europe Facility

1. THE TERMS USED IN THE DOCUMENT

- 1.1. **Commission** – The procurement commission established by joint stock company RB Rail AS order “To organize open competition “Design guidelines for Rail Baltic/Rail Baltica Railway” and establish procurement commission”, No 11/2016-10 on 25 November, 2016;
- 1.2. **Contracting authority** (hereinafter - the **Company**) – joint stock company RB Rail AS, registration number 40103845025, registered address: Gogoļa iela 3, Rīga, LV-1050, Latvia, office address: Krišjāņa Valdemāra iela 21, Rīga LV-1010, Latvia;
- 1.3. **Open competition** – open competition “Design guidelines for Rail Baltic/Rail Baltica Railway”;
- 1.4. **Supplier** – a natural person or a legal person, an association of such persons in any combination thereof, which offer on the market to perform works, supply products or provide services accordingly;
- 1.5. **Tenderer** – a supplier, which has submitted a tender in open competition;

2. GENERAL INFORMATION

- 2.1. The contracting authority is the joint stock company **RB Rail AS**, registration number 40103845025, registered address: Gogoļa iela 3, Rīga, LV-1050, Latvia, office address: Krišjāņa Valdemāra iela 21, Rīga LV-1010, Latvia.
- 2.2. The identification number of this open competition is **RBR 2017/1**.
- 2.3. The applicable CPV code is: 71300000-1.
- 2.4. This open competition is organised in accordance with the Public Procurement Law of Latvia in effect on the date of publishing the contract notice.
- 2.5. Contact persons of the Company are:
 - 2.5.1. Procurement organizational aspects: Procurement manager Aigars Kivliņš, telephone +371 27167687, e-mail address: aigars.kivlins@railbaltica.org, Lead Procurement Specialist, Mārtiņš Blaus, telephone: +371 28118533, e-mail address: martins.blaus@railbaltica.org;
 - 2.5.2. In aspects concerning the subject matter of open competition: Project Manager, Artūrs Caune, telephone +371 25434393, e-mail address: arturs.caune@railbaltica.org.

3. DESCRIPTION OF THE SUBJECT MATTER OF THE OPEN COMPETITION

- 3.1. The subject-matter of the open competition is development of Design guidelines for Rail Baltic / Rail Baltica Railway in accordance with the Specification (Annex No. 2) (hereinafter - the **Services**).
- 3.2. The purpose of the Services is to provide engineers a standardized approach to Rail Baltic / Rail Baltica design, which will be mandatory for design, construction and operations of the Rail Baltic / Rail Baltica infrastructure and will be endorsed by respective national authorities, if applicable.
- 3.3. The open competition and subject matter is co-financed by Connecting Europe Facility (CEF).

4. DELIVERY OF THE SERVICES

- 4.1. Deadline: Design guidelines for Rail Baltic / Rail Baltica Railway shall be finished and submitted to Company within 24 weeks after the commencement date of the contract (hereinafter also – CD).
- 4.2. Place of delivery of Services: Krišjāņa Valdemāra iela 21, room 639, Rīga LV-1010, Latvia.

- 4.3. Place of execution of Services: Latvia, Estonia, Lithuania.
- 4.4. Deliverables during the process of provision of Services are described in the Technical Specification (Annex No. 2).

5. EXCHANGE OF INFORMATION

- 5.1. The procurement commission and the Supplier exchange information in writing in English or Latvian (accompanied with translation in English), by sending documents by post, or electronically, or by delivering in person.
- 5.2. The notices and other documents, which are issued by competent institutions in cases stipulated by the Public Procurement Law, are accepted and recognized by the procurement commission, if they are issued no earlier than 1 (one) month prior to the date of submission.
- 5.3. The Supplier may request additional information and explanations regarding the preparation of the Proposal. All requests shall be executed in writing by sending to e-mails: martins.blaus@railbaltica.org and procurement@railbaltica.org not later than six (6) working days prior to the deadline specified in Section 11.1. Subject of the e-mail has to begin with identification number of the open tender RBR 2017/1.
- 5.4. The procurement commission shall prepare a written reply to the request and shall send it to all interested suppliers together with the asked question, without specifying the Supplier who has asked the question, and publish answers in Companies web page: <http://railbaltica.org/en/procurements>.
- 5.5. It shall be considered that all the interested suppliers have received the information related to the open competition if the Company has placed the information on the home page <http://railbaltica.org/en/procurements> in the section of publication of open competition.

6. TENDERER

- 6.1. The proposal can be submitted by:
 - 6.1.1. A supplier, who is a legal or natural person (hereinafter – **Tenderer**);
 - 6.1.2. A group of suppliers (hereinafter also – **Tenderer**). In this case all the members of the group shall be listed in Annex No 1 “Application” as well as an agreement to participate in the open competition and agreement about representation rights signed by all members of the group shall be added to the Tenderer’s proposal. If it will be decided to award contracting rights to such group of suppliers, then prior to concluding the Contract the group of suppliers shall enter into a partnership agreement (within the meaning of Latvian Civil Law Sections 2241-2280) and shall submit one copy of this agreement to the Contracting authority. The partnership agreement can be replaced with the establishment of a general partnership (within the meaning of Latvian Commercial Law, Chapter IX) and by notifying the Contracting authority in writing.
 - 6.1.3. A partnership (a general partnership or a limited partnership, within the meaning of Latvian Commercial Law, Chapter IX-X) (hereinafter also – **Tenderer**). In this case all the members of the partnership shall be listed in Annex No 1 “Application”.
- 6.2. Tenderer’s selection documents are stipulated in the Section 8 of these Regulations.

7. SUB-CONTRACTING

- 7.1. The Tenderer shall indicate in the Proposal all the subcontractors of the Tenderer, and indicate the part of the Services entrusted to each such subcontractor, by submitting information in Annex No 1 “Application”.

- 7.2. The Tenderer to whom the rights to conclude the Contract should be assigned, upon request of procurement commission, shall change a subcontractor, whose share is at least 20 per cent of the overall value of the Contract, in case the event stipulated in Section 39.¹(8) of the Public Procurement Law occurs.
- 7.3. The change of subcontractors during the period of fulfilling the Contract or the involvement of new subcontractors in the fulfilling of the Contract shall be carried out according to the following procedure:
- 7.3.1. The change of subcontractors, as well as the involvement of new subcontractors in the fulfilling of the contract, the value of whose part of the Services to be performed is less than 20 (twenty) per cent of the overall value of the Contract, can be performed by the Tenderer selected in the open competition procedure (Contractor) without coordinating such change with the Company, but informing the Company 7 (seven) days beforehand about the change or involvement;
- 7.3.2. The change of subcontractors, who are indicated in the Tenderer's Proposal as subcontractors, the value of whose part of the Services to be performed is 20 (twenty) per cent of the overall value of the Contract or more (if the Tenderer was not relying on the capabilities of these subcontractors in order to certify the compliance of its qualification to the requirements stipulated in the Regulation), as well as the involvement of subcontractors complying with the aforementioned criterion in the fulfilment of the contract, can be performed by the Tenderer (Contractor) if it has informed the Company thereof and received a written permission of the Company. The Company agrees to the change of the subcontractor or the involvement of a new subcontractor, if the following conditions for the exclusion of tenderers stipulated in Section 39¹(1) of the Public Procurement Law do not apply to them:
- (a) Within previous 3 (three) years the subcontractor has been found guilty of an offence related to employment of one or more persons without a valid working permit or who do not have legal rights to reside in a Member State of the European Union;
 - (b) Within previous 12 (twelve) months the subcontractor has been found guilty of employment of persons without written employment contracts;
 - (c) Within previous 12 (twelve) months the subcontractor has been found guilty of a breach of the Competition Law manifested as a vertical agreement aimed at restricting the opportunity of a purchaser to determine the resale price, or horizontal cartel agreement, except for the case when the relevant authority, upon determining infringement of competition rights, has released the candidate or tenderer from a fine or reduced fine within the framework of the co-operation leniency programme;
 - (d) The subcontractor has started insolvency proceedings, the economic activity of the subcontractor has been suspended or discontinued, the subcontractor is being wound up;
 - (e) The subcontractor has tax debts in a country where it is registered or permanently residing, including debts of mandatory State social insurance contributions in total exceeding 150 euro in each country;
 - (f) The person that has prepared the Regulation or who is the member of the procurement commission is linked with the subcontractor (during past 24 (twenty four) months is or is a close family member of a person who is or was a shareholder, management board member, legal representative, employee) and the Company is unable to resolve such conflict of interests by other less restrictive means;

- (g) The subcontractor has unfair advantage over its competitors due to previous involvement in the preparation of the tender of this subcontractor or its connected entities and the Company is unable to mitigate such advantage by other less restrictive means.
- 7.3.3. The Company shall evaluate the subcontractors that the Tenderer propose to change in order to evaluate their compliance with requirements under this Regulation and the Public Procurement Law.
- 7.3.4. The subcontractor, upon whose capabilities the Tenderer (Contractor) was relying upon in the open competition procedure in order to certify the compliance of its qualification to the requirements stipulated in the Regulation, can be changed only with prior permission by the Company if the proposed subcontractor has the qualifications complying with the requirements stipulated in the Regulation, if the conditions for the exclusion of tenderers stipulated in Section 39¹(1) of the Public Procurement Law which are mentioned in Section 7.3.2 above do not apply to them, as well as the following additional condition for the exclusion of tenderers stipulated in Section 39¹(1) of the Public Procurement Law does not apply to them:

The subcontractor, its board member or representative has been found guilty of a criminal offence related to bribery, fraud, misappropriation of a property, money laundering, participating in organised crime, tax evasion, human trafficking, terrorism (organising, participating, recruiting, financing).

8. QUALIFICATION CRITERIA

8.1. Requirements as to legal, financial and economic capacity of the Tenderer

8.1.1. The Tenderer has to meet at least the following minimum requirements:

Average annual financial turnover within last three years (2013, 2014, 2015) is not less than EUR 500 000 per year. If the Tenderer established or started operations on January 1, 2013 or later, then the requirement shall apply to the Tenderer's actual operation period.

8.1.2. The Tenderer should submit its audited yearly reports for fiscal years 2013, 2014, 2015 showing the turnover of the Tenderer.

8.2. Requirements as to technical and professional capacity of the Tenderer

8.2.1. The Tenderer has to meet at least the following minimum requirements:

(a) Within the last ten (10) years before the date of the submission of the proposal has prepared at least one design guidelines or engineering standards, or provided other services similar to the task of the subject-matter in accordance with EU railway interoperability policy. The respective service contracts shall be completed no later than by the date of submission of the proposal;

(b) Within the last five (5) years (2012; 2013; 2014; 2015; 2016 including 2017 until the date of submission of the Proposal) before the date of the submission of the proposal has obtained experience in technical design in at least one large scale railway infrastructure development or railway infrastructure design project with investments of at least 50 million euro. The respective service contracts shall be completed no later than by the date of submission of the proposal.

8.2.2. The Tenderer should submit information in a form which is attached at Annex 3 Form 1 "Experience of Tenderer".

8.3. Team of experts

8.3.1. The Tenderer should propose a team consisting of the following key experts meeting the following qualification criteria to provide services. The Tenderer is not allowed to change its key experts during the execution of the procurement contract without the prior written approval of the Company. The Company is only allowed to grant an approval for such a change if the new key expert meets all the same qualification criteria as the key expert to be substituted. Experts cannot serve several roles, however the role of the project manager and the role of an expert can be combined. All experts should have a good working knowledge and presentation skills in English:

- (a) **Project manager** with the following qualifications:
 - (i) Master's degree (or equivalent) in transport systems/ logistics or railway design/ civil engineering or equivalent education;
 - (ii) Project management experience of at least one project in accordance with EU railway interoperability policy with task similar to the subject matter (design guidelines; engineering standards, etc.) with possible investments of at least 50 million euro within the last four years (2013; 2014; 2015; 2016; including 2017 until the date of submission of the Proposal);
 - (iii) International and multi-disciplinary project team management experience in the last four years (2013; 2014; 2015; 2016; including 2017 until the date of submission of the Proposal).
- (b) **General advisor – railway industry expert** with the following qualifications:
 - (i) Master's degree (or equivalent) in civil engineering.
 - (ii) Experience in a role as key expert in at least one railway infrastructure project in accordance with EU railway interoperability policy with task similar to the subject matter (design guidelines; engineering standards, etc.) with possible investments of at least 50 million euro within the last four years (2013; 2014; 2015; 2016; including 2017 until the date of submission of the Proposal);
- (c) **Advisor – standardization expert** with the following qualifications:
 - (i) Master's degree (or equivalent) in civil engineering/ transport system engineering or equivalent education.
 - (ii) Experience as a team leader or key expert, drafting technical standards and/or design guidelines for a EU 1435 mm railway or project in accordance with EU railway interoperability policy.
 - (iii) Experience with a standardization process in developing new standards or adapting the existing standards in accordance with EU railway interoperability policy.
- (d) **Advisor – Railway track and structures expert** with the following qualifications:
 - (i) Master's degree (or equivalent) in civil engineering;
 - (ii) At least 3 years' experience in design of railway infrastructure and railway structures;
 - (iii) Experience in the design of 1435 mm standard gauge railway tracks and railway engineering structures (bridges, culverts, platforms, level crossings, etc.) in accordance with the Technical Specifications for Interoperability relevant to the subject-matter;

- (iv) participation as an expert and/or expert assistant in at least 3 projects, of which at least one project has been completed within the last four years (2013; 2014; 2015; 2016; including 2017 until the date of submission of the Proposal) and one project was in accordance with EU railway interoperability policy.
- (e) **Advisor - Signalling and telecommunications expert** with the following qualifications:
 - (i) Master's degree (or equivalent) with specialization or related to automation and/or telecommunications;
 - (ii) At least 3 years' experience in the period of last five years (2012; 2013; 2014; 2015; 2016; including 2017 until the date of submission of the Proposal) in the design of railway signalling (including ERTMS and station interlocking) and/or telecommunications in accordance with the Technical Specifications for Interoperability (The technical specification for interoperability relating to the control-command and signalling subsystems of the trans-European rail system);
 - (iii) Experience in the design of railway signalling and/or telecommunications - participation as an expert and/or expert assistant in at least 3 projects, of which at least one project is completed within the last five years (2012; 2013; 2014; 2015; 2016; including 2017 until the date of submission of the Proposal) and one project was in accordance with EU railway interoperability policy and comprises ERTMS.
- (f) **Advisor - Expert in railway power supply and overhead contact line** with following qualifications:
 - (i) Master's degree (or equivalent) with specialization or related to power supply;
 - (ii) At least 5 years' experience in the design of railway power supply and overhead contact lines;
 - (iii) Experience in the design of railway power supply and overhead contact lines - participation as an expert and/or expert assistant in at least 3 projects, of which at least one project is completed within the last 3 years (2014; 2015; 2016; including 2017 until the date of submission of the Proposal) and one project was in accordance with the Technical Specifications for Interoperability (The technical specifications for interoperability relating to the 'energy' subsystem of the rail system in the Union).
- (g) **Legal advisor** with the following qualifications:
 - (i) Master's degree in law.
 - (ii) At least 3 years' experience in practicing as a lawyer or legal advisor;
 - (iii) Experience in working with European railway regulation in at least 3 projects of which at least one project is completed within the last 4 years (2013; 2014; 2015; 2016; including 2017 until the date of submission of the Proposal);
 - (iv) Experience in an advisory role in at least one cross-border transport infrastructure project with a similar task (design guidelines; engineering standards, etc.) in the last five years (2012; 2013; 2014; 2015; 2016; including 2017 until the date of submission of the Proposal).

8.3.2. The Tenderer should submit information about each candidate for an expert in a form which is attached at Annex 3 Form 2 "Experience of key expert", signed by the relevant expert. In

case one candidate is proposed as an expert for multiple positions, then only one table including requested information for all positions shall be submitted for such candidate.

- 8.4. In order to prove the compliance to the qualification requirements, the Tenderer may rely on the capabilities of other entities, regardless of the legal nature of their mutual relationship:
 - 8.4.1. In this case the Tenderer indicates in Appendix 1 "Financial proposal" of the Regulation all the entities, upon whose capabilities they rely in order to prove their qualification, and proves to the procurement commission that the Tenderer shall have available all the necessary resources for the fulfilment of the Contract, by submitting a signed confirmation or agreement on cooperation and/or passing of resources to the Tenderer between such entities and the Tenderer. The confirmations and agreements on cooperation and passing of resources can be replaced by the Tenderer with any other type of documents with which the Tenderer is able to prove that the necessary resources will be available to the Tenderer and will be used during the term of fulfilment of the Contract;
 - 8.4.2. Documents on cooperation and passing of resources have to be sufficient to prove to the procurement commission that the Tenderer will have the ability to fulfil the Contract, as well as that during the validity of the Contract the Tenderer will in fact use the resources of such entity upon whose capabilities the Tenderer relies to prove its qualification.
- 8.5. If the Tenderer is a group of suppliers then the qualification on financial capacity has to be met by at least one member of the group of suppliers. Technical and professional capacity and experts of all members of a group of suppliers are counted together.
- 8.6. The Tenderer, in order to certify that it complies with the above listed requirements for Tenderers' selection, may submit the European single procedure document as initial proof. This document must be submitted in paper format, and for each person upon whose capabilities the Tenderer relies, and for each of their indicated subcontractors, the value of whose services amounts to at least 20 (twenty) per cent of the value of the Contract, but if the Tenderer is a group of persons or a partnership – for each member thereof. In order to fill in the European single procedure document the Tenderer uses the "ESPD.xml" file at the Internet webpage <https://ec.europa.eu/growth/tools-databases/espd/filter?lang=lv#>.

9. PROPOSAL (BID) SECURITY

- 9.1. The Tenderer along with the Proposal must submit a proposal (bid) security in the amount of EUR 5000 (*five thousand euros*) (hereinafter – **Security**) which should be valid 90 (ninety) days from the day of opening of the Proposal.
- 9.2. The Security may be:
 - 9.2.1. A bank guarantee;
 - 9.2.2. An insurance policy.
- 9.3. The bank guarantee must comply with the following requirements:
 - 9.3.1. The guarantor must pledge to pay the Company the sum of the Security in cases stipulated in Section 9.7.
 - 9.3.2. The guarantee must be in force for the term stipulated in this Regulation;
 - 9.3.3. The guarantee must be irrevocable;
 - 9.3.4. The Company shall not be obliged to demand the Security from the Tenderer prior to submitting the request to the guarantor;
 - 9.3.5. The Uniform Rules for Demand Guaranties, ICC Publication No.758, issued by the International Chamber of Commerce (ICC), are applicable to the guarantee, but in matters which are not regulated by the aforementioned International Chamber of Commerce (ICC) Rules, the regulatory enactments of the Republic of Latvia are applicable to the guarantee.

Claims and disputes in relation to this guarantee shall be examined in the court of the Republic of Latvia, in accordance with the laws of the Republic of Latvia.

- 9.4. The insurance policy must comply with the following requirements:
 - 9.4.1. The insurer must pledge to pay the Company the sum of the Security in cases stipulated in Section 9.7.
 - 9.4.2. The insurance policy must be in force for the term stipulated in this Regulation and be subject to realization from the opening of the proposal, that is, the insurance premium must be paid by the moment of submitting the proposal, which is proved by a payment certificate enclosed to the proposal;
 - 9.4.3. The insurance policy must be irrevocable;
 - 9.4.4. The Company shall not be obliged to demand the Security from the Tenderer prior to submitting the request to the insurer;
 - 9.4.5. Claims and disputes in relation to this insurance policy shall be examined in the court of the Republic of Latvia in accordance with the laws of the Republic of Latvia.
- 9.5. If the Tenderer is a group of suppliers or a partnership, then the Security must be formalized in such a way that it applies to all the members of the Tenderer (the name of the Tenderer in the Security must be the same as the name of the Tenderer in the proposal).
- 9.6. The Security shall be in force for the shortest of the terms listed below:
 - 9.6.1. the term of validity of the Security stipulated in Section 9.1 of this Regulation;
 - 9.6.2. until the Contract is concluded.
- 9.7. Upon request of the Company the Security giver shall pay the sum of the Security to the Company, if:
 - 9.7.1. the Tenderer revokes its Proposal while the Security is in force,
 - 9.7.2. The selected Tenderer fails to submit necessary documents and security for the execution of the Contract,
 - 9.7.3. the Tenderer, whose Proposal is selected in accordance with the proposal selection criterion, does not sign the Contract in the term stipulated by the procurement commission.
- 9.8. After the end of the term of validity of the Security or the conclusion of the Contract the Security shall be returned to the Tenderer.

10. CONTENT OF A PROPOSAL

- 10.1. The documents shall be included in the proposal in following order:
 - 10.1.1. The Security.
 - 10.1.2. Title page entitled "Design guidelines for Rail Baltic / Rail Baltica Railway" No RBR 2017/1 ", name, address and contact information of the Tenderer;
 - 10.1.3. The table of contents with page numeration;
 - 10.1.4. Application (Annex No. 1);
 - 10.1.5. Information on the Tenderer's financial turnover;
 - 10.1.6. Information about the experience of the Tenderer in accordance with Annex 3 Form 1 "Experience of Tenderer";
 - 10.1.7. A list of the team of experts accompanied with information about each expert in accordance with Annex 3 Form 2 "Experience of key expert", signed by the proposed expert, accompanied with copies of higher education diplomas, CVs or equivalent content material;

- 10.1.8. Technical proposal prepared in accordance to Section 15 of this Regulation.
- 10.1.9. As regards a Tenderer (or person on whose abilities it relies) – a copy of a valid registration certificate or a similar document issued by the authority in charge of the registration of enterprises in the country of registration of the Tenderer;
- 10.1.10. In the case when the proposal is submitted by a partnership or a consortium, the proposal shall include an agreement (or letter of intention to enter into agreement) on the participation in the open competition signed by all members, which lists responsibilities and liabilities of each and every member and a joint commitment to deliver the procurement agreement, and which lists one key member authorized to sign the proposal and other documents, to receive and issue orders on behalf of the partnership members, and to whom all payments will be made;
- 10.1.11. In the case if sub-contracting approach is proposed, information about the sub-contractors in accordance with Section 7.1, and an agreement (or letter of intention to enter into agreement) with the sub-contractor;
- 10.1.12. In the case of reliance on the capabilities of another entity, information about such entity in accordance with Section 8.4 and an agreement or other requested documents which prove the availability of the capabilities to the Tenderer;
- 10.1.13. In the case if the Proposal is not signed by the legal representative of the Tenderer, a document certifying the rights of the persons who have signed the Proposal, to represent the Tenderer (powers of attorney, authorization agreements etc.).

11. SUBMISSION OF A PROPOSAL

- 11.1. Proposal (documents referred to in Section 10 of this Regulation) for participation in the open competition shall be submitted personally, by courier or mail to the RB Rail AS, 21 Krišjāņa Valdemara iela, room 639, Riga, LV-1010). A Proposal shall be submitted not later than by 3 March 2017, till 10:00 o'clock.
- 11.2. Tenderer is not permitted to submit variants of the Proposal.
- 11.3. Tenderer may submit a Proposal only for the whole subject matter of the open competition in total.
- 11.4. Proposals submitted after the expiry of the deadline for the submission of Proposals shall not be reviewed and will be returned to the Tenderer unopened. If the Tenderer uses courier or mail, the Tenderer is responsible for the timely delivery of the proposal to the Company. Proposals received after the deadline will be sent back unopened.
- 11.5. Tenderer may recall or amend its submitted Proposal before the expiry for the deadline for the submission of Proposals. In case of amendments, the Tenderer has to clearly indicate on the Proposal that the Proposal is amended by indicating: "AMENDMENTS" in addition to the information mentioned in sub-paragraph 11.1.

12. PERIOD OF VALIDITY OF THE PROPOSAL

- 12.1. The Proposal should be valid for at least ninety (90) days from the day of opening of the Proposal.

13. PREPARATION AND OVERALL LAYOUT OF THE PROPOSAL

- 13.1. The Tenderer shall submit a Proposal in a glued envelope, on which it is clearly indicated: "Proposal for the open competition "Design guidelines for Rail Baltic / Rail Baltica Railway" No RBR 2017/1, Do not open until 3 March 2017 at 10:00 o'clock" and the address: To the RB

Rail AS, Krišjāņa Valdemāra iela 21, room 639, Riga, LV-1010. The name, address and telephone number of the Tenderer shall be specified on the envelope as well.

- 13.2. The Proposal shall be submitted sewn or bound together, in written form, in English or Latvian (accompanied with translation in English).
- 13.3. In case that there are documents in the Proposal which originally are not in English, a translation certified by the Tenderer has to be included.
- 13.4. One original, one copy and a soft copy (soft copy files being in PDF format and Annex 1, Annex 3, Technical proposal and expert CV's in MS Office format, or compatible with the mentioned formats) of the Proposal shall be submitted for the open competition.
- 13.5. All costs associated with the proposal preparation and submission shall be borne by the Tenderer.

14. FINANCIAL PROPOSAL

- 14.1. The Financial Proposal shall be submitted as part of Annex 1 "Application".
- 14.2. The proposed contract price shall be determined in *euro* without value added tax (hereinafter – VAT).
- 14.3. The proposed contract price is to be calculated and indicated with an accuracy of 2 (two) decimal places. If more than 2 (two) decimal places are indicated, then only the first two decimal places will be taken into account.
- 14.4. The proposed contract price shall include all taxes, fees and payments, and all costs related to the fulfilment of the specific job that can be reasonably estimated, except VAT, including but not limited to:
 - 14.4.1. Visits to Company (cost of business trips and time of consultants),
 - 14.4.2. Field research,
 - 14.4.3. Purchase of external materials and researches,
 - 14.4.4. Purchase of external experts if applicable,
- 14.5. The prices are fixed for all the term of the fulfilment of the Contract and are not recalculated, except in cases stipulated in the Contract.

15. TECHNICAL PROPOSAL

- 15.1. The Tenderers should submit a methodology document in accordance with Annex 2 "Technical Proposal", containing the description of at least the following aspects:
 - 15.1.1. Description of the organisational aspects, which includes but is not limited to:
 - (a) Methods for the provision of Services;
 - (b) Principles for the organization of meetings with the Company and Stakeholders;
 - (c) Principles for the communication with regulatory bodies and other involved experts of the Stakeholder countries;
 - (d) Principles for the daily communication between the Tenderer and the Company (e.g. by telephone; e-mail, etc.);
 - (e) Ensuring the full time availability of the Tenderer's personnel;
 - 15.1.2. Description of the contents of Services, which includes but is not limited to:
 - (a) Elaboration of the scope of Services given in the Specification showing the understanding of the assignment;

- (b) The management of provision of Services;
 - (c) The sequence and the co-relation of the tasks and deliverables;
 - (d) Stages of the provision of the Services;
 - (e) Identification of risks and proposal of measures for the aversion of the identified risks during each stage of the Service;
 - (f) timetable of the delivery of Services and deliverables, which is compatible with the one stipulated in the Specification and Section 2.4;
- 15.1.3. Description of the Tenderer's personnel and resources and work organization, which includes but is not limited to:
- (a) Description of the Tenderer's core team (Personnel stipulated in Section 5.3), their work management structure, hierarchy, decision making process and each core team members responsibilities;
 - (b) Procedure for engagement of additional experts required for performance of the Services and their role in the proposed management structure:
 - (i) Legal experts on railway and construction legislation matters of the Stakeholder countries (Latvia, Estonia, Lithuania);
 - (ii) Technical experts on railway infrastructure of the Stakeholder countries (Latvia, Estonia, Lithuania);
 - (c) Identification and description of the resources that will be used by the Tenderer to fulfil the Service and can be called upon, if needed.

16. OPENING OF PROPOSALS

- 16.1. The opening of Proposals takes place during an open meeting of the procurement commission at 10.00 o'clock on 3 March 2017 at RB Rail AS, 21 Krišjāņa Valdemara iela, Riga, LV-1010.
- 16.2. The Proposals are opened in order of their submission, by naming the Tenderer, the time of Proposal submission, the proposed price and other information that characterizes the Proposal, as well as making sure of the presence of documents proving the Security. At the request of a meeting participant the procurement commission shows the Financial proposal, where in accordance with the Financial proposal form the offered price is indicated, making sure that information which is not generally available is not disclosed.
- 16.3. The information announced at the Proposal opening meeting is written down in the submitted Proposal opening sheet, which is signed by the present members of the procurement commission. The copy of the Proposal opening sheet is issued to Tenderers' representatives who are present during the meeting, as well as published on the Company's Internet webpage <http://railbaltica.org/en/procurements>.

17. SELECTION OF TENDERERS

- 17.1. The procurement commission first verifies whether the submitted Proposals are compliant with the requirements of Section 13 of the Regulation and select for further evaluation the compliant Proposals.
- 17.2. The procurement commission excludes a Tenderer from participation in the open competition procedure in any of the following cases:
- 17.2.1. For the Tenderer, to whom the right to conclude the Contract should be assigned (Contractor), its subcontractors and persons upon whose capabilities the Tenderer was relying upon in the open competition procedure in order to certify the compliance of its

qualification to the requirements stipulated in the Regulation one of the following events has come into effect:

- (a) Within previous 3 (three) years the Tenderer, its board member or representative has been found guilty of a criminal offence related to bribery, fraud, misappropriation of a property, money laundering, participating in organised crime, tax evasion, human trafficking, terrorism (organising, participating, recruiting, financing) (this event does not apply to sub-contractors on whose capabilities the Tenderer does not rely);
- (b) Within previous 3 (three) years the subcontractor has been found guilty of an offence related to employment of one or more persons without a valid working permit or who do not have legal rights to reside in a Member State of the European Union;
- (c) Within previous 12 (twelve) months the subcontractor has been found guilty of employment of persons without written employment contracts;
- (d) Within previous 12 (twelve) months the Tenderer has been found guilty of a breach of the Competition Law manifested as a vertical agreement aimed at restricting the opportunity of a purchaser to determine the resale price, or horizontal cartel agreement, except for the case when the relevant authority, upon determining infringement of competition rights, has released the candidate or tenderer from a fine or reduced fine within the framework of the co-operation leniency programme;
- (e) The Tenderer has started insolvency proceedings, the economic activity of the subcontractor has been suspended or discontinued, the subcontractor is being wound up;
- (f) The Tenderer has tax debts in a country where it is registered or permanently residing, including debts of mandatory State social insurance contributions in total exceeding 150 euro in each country;
- (g) The person that has prepared the Regulation or who is the member of the procurement commission is linked with the subcontractor (during past 24 (twenty four) months is or is a close family member of a person who is or was a shareholder, management board member, legal representative, employee) and the Company is unable to resolve such conflict of interests by other less restrictive means;
- (h) The subcontractor has unfair advantage over its competitors due to previous involvement in the preparation of the tender of this subcontractor or its connected entities and the Company is unable to mitigate such advantage by other less restrictive means.

However, when making the decision, the procurement commission takes also into account the deadlines and circumstances described in the Public Procurement Law.

17.2.2. The Tenderer has submitted false information for the assessment of its selection or qualifications or has not submitted the requested information at all, and this information has significant importance for Tenderers' selection procedure;

17.2.3. The Tenderer has not submitted all of the required documents or submitted documents do not contain the information demanded by the Regulation. The procurement commission will not reject a Proposal if the missing information (additional documents, additional information) can be obtained by requesting clarifying information from the Tenderer;

- 17.2.4. The Tenderer does not comply with the qualification requirements indicated in Section 8 of this Regulation;
- 17.2.5. The Security does not comply with requirements stipulated by this Regulation;
- 17.2.6. There are no documents certifying that the experts proposed by the Tenderer are ready to participate in the execution of the Contract.

18. SELECTION OF TECHNICAL PROPOSALS

- 18.1. the requirements stipulated in Section 15 and Annex No 2 "Technical Specification" and other provisions of the Regulation selects for further evaluation the compliant Technical proposals.

19. VERIFICATION OF FINANCIAL PROPOSALS

- 19.1. The procurement commission verifies whether the Tenderer has completed Annex 1 "Application" of the Regulation in accordance with the requirements.
- 19.2. The procurement commission verifies whether there are any arithmetical errors, whether an abnormally low Proposal has been received, as well as assesses and compares the contract prices proposed.
- 19.3. The procurement commission informs the Tenderer whose errors have been corrected about the correction of errors and the corrected proposed contract price.
- 19.4. When evaluating the proposed contract price, the procurement commission takes corrections into account.
- 19.5. The procurement commission has the right to demand that the Tenderer discloses the calculation of the proposed contract price in order to ascertain the objectivity of the proposed contract price and whether an abnormally low Proposal has been submitted.
- 19.6. The procurement commission has the duty to assess whether the Proposal is abnormally low. To determine whether the Proposal is abnormally low, the procurement commission compares the average hourly rate of the Tenderer or of the subcontracted employees indicated in the Proposal in at least one of the profession groups with the average hourly rate in the corresponding profession group in the Republic of Latvia according to the data aggregated by the State Revenue Service. If the average hourly rate is less than 80% of the rate for the same profession group in the Republic of Latvia, the procurement commission prior to the possible refusal of this Proposal demands in writing a detailed explanation regarding the significant conditions of the Proposal and, consulting with the Tenderer, assesses all the factors mentioned in Section 48(2) of the Public Procurement Law. To assess the factors mentioned Section 48(2)6 of the Public Procurement Law the procurement commission requests an opinion from the relevant authorities if the Tenderer is from other country or from the State Revenue Service if the Tenderer is from Latvia.

20. PROPOSAL EVALUATION

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

Evaluation criteria	Points
Financial proposal. The points for the financial proposal are calculated according to the following formula:	40

Evaluation criteria	Points
$points = \frac{\text{lowest bid price}}{\text{Tenderer's proposed contract price}} \times 40$	
Quality of the Technical proposal, which will be evaluated in accordance with Section 20.4.	35
Quality of the experts, which will be evaluated in accordance with Section 20.5	25
Total	100

20.3. The procurement commission shall sum up the points obtained by each Tenderer and the Contract shall be awarded to the Tenderer whose Proposal obtains the highest score.

20.4. **Quality of the Technical proposal**

20.4.1. Quality of the Technical proposal will be evaluated on a scale of 0-35 according to the following:

Criteria	Points
<p>Insufficient¹ level of details</p> <p>The Technical proposal consists of unanswered or significantly inadequate and incomplete solutions to the required specific tasks. A failure to grasp the intended requirements of tasks outlined in Section 15 and the Technical Specification. The Tenderer clearly has not understood the scope and depth of the subject matter and required tasks. The Technical proposal conforms with the Technical Specification and practice of the industry only partly, the description of provision of services does not provide an idea about the way and means of provision of these services and project in general and:</p> <ul style="list-style-type: none"> • An insufficient description of the organisational aspects is provided; the Tenderer has proposed to provide services according to the Specification, rewritten the Specification without elaborating the information contained in it or has elaborated only parts of the Specification; • An insufficient description of the outline of activities/ instruments/ methods for provision of the services and the deliverables is provided; • An insufficient description of required resources, engagement of experts, for provision of services. <p>The Tenderer has agreed to provide services according to the Specification, rewritten the Specification without elaborating and supplementing the information contained in it. The Tenderer clearly has not understood the scope and depth of subject matter, required specific tasks and project in general.</p>	<p>Awarded with no points</p>
<p>Satisfactory² level of details</p> <p>The Technical proposal conforms with the Technical Specification, tasks outlined in Section 15, the draft contract and practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and:</p>	<p>Awarded with 10 points</p>

¹ **Insufficient** here and elsewhere means a description, which partly meets the required quality and performance set out in the Specification in some areas but with some major issues negatively deviating from the Specification and very limited or no additional analysis or substantiation including by taking into account the particular tasks of this particular project.

² **Satisfactory** here and elsewhere means a description, which generally meets the required quality and performance set out in the Specification but with some minor issues negatively deviating from the Specification and limited additional analysis or substantiation including by taking into account the particular tasks of this particular project

<ul style="list-style-type: none"> • A description of the organisational aspects is provided; a satisfactory description of the methods for provision of services is provided; • A satisfactory description of the contents of the services (expanded description of the Specification), the methods of provision of the services and the management of provision of the services, the sequence and the co-relation of the tasks and the results is provided; • A good³ description of the team, resources and the model for their co-operation is provided; <p>A satisfactory description of the outline of activities/ instruments/ methods for provision of services is provided, by describing the stages of provision of services, the deliverables, contents of the deliverables etc. Minimal or poor response to Specific tasks outlined in Section 9.6 this Proposal, noticeable limited understanding of some aspects. Not all Specific tasks are outlined in Technical proposal; neither methods/approaches/researches/studies are proposed for all specific tasks.</p>	
<p>High² level of detail</p> <p>The document conforms with the Technical Specification, specific tasks outlined in Section 15 of this Regulation and the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and:</p> <ul style="list-style-type: none"> • A good description of the organisational aspects is provided; a good description of the methods for provision of services is provided; • A substantiated, but good description of the contents of the services (expanded description of the Specification), the methods of provision of the services and the management of provision of the services, the sequence and the co-relation of the tasks and the results is provided; • A good description of the team, resources and the model for their co-operation is provided; • A good description on how the Tenderer's organisation will work in partnership with Company and other stakeholders; • A good description of the outline of activities/ instruments/ methods for provision of services is provided, by describing the stages of provision of services, the deliverables, detailed contents of the needed researches, studies etc. • Good understanding and interpretation of required specific tasks and Technical specification. All Specific tasks are outlined in Technical proposal. Some proposed methods/approaches/researches/studies are still incomplete. 	<p>Awarded with 20 points</p>
<p>Outstanding⁴ level of detail</p> <p>The document conforms with the Technical Specification, specific tasks outlined in Section 15 of this Regulation and the best practice of industry, the description of provision of services provides an idea about the way and means of provision of these services and:</p>	<p>Awarded with 35 points</p>

³ **Good** here and elsewhere means a detailed and structured description, which meets the required quality and performance set out in the Specification, with some alternatives analysed and choices substantiated including by taking into account the particular tasks of this particular project.

⁴ **Outstanding** here and elsewhere means a detailed and well-structured description comprising features which exceed the required quality and performance set out in the Specification, with many alternatives analysed and options are substantiated including by taking into account the particular tasks of this particular project.

<ul style="list-style-type: none"> • An outstanding description of the organisational aspects is provided; an outstanding description of the methods for provision of services is provided; • An outstanding and substantiated description of the contents of the services (expanded description of the Specification), the methods of provision of the services and the management of provision of the services, the sequence and the co-relation of the tasks and the results is provided; • An outstanding description of the team, resources and the model for their co-operation is provided; <p>An outstanding description of the outline of activities/ instruments/ methods for provision of services is provided, by describing the stages of provision of services, the deliverables, detailed contents of the deliverables and the argumentation for choosing the particular contents of the particular deliverable etc.</p>	
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20.4.2. The number of points obtained in accordance with Section 20.4.1 shall be inserted in the overall evaluation table as the number of points which each Proposal has scored for the quality of the Technical proposal.

20.5. Quality of the experts

20.5.1. Only the following experience, which exceeds the minimum experience which is requested in Section 8.3 shall be awarded with points in accordance with the following methodology:

No	Criteria	Maximum points	Points
a	Project manager		
a.1	Project management experience in more than one project in accordance with EU railway interoperability policy with task similar to the subject matter (design guidelines; engineering standards, etc.) with possible investments of at least 50 million euro within the last four years (2013; 2014; 2015; 2016 including 2017 until the date of submission of the Proposal);	10	2 projects awarded with 5 points 3 or more projects awarded with 10 points
a.2	Project management experience in <u>cross border project</u> in accordance with EU railway interoperability policy with task similar to subject matter (design guidelines; engineering standards, etc.) with possible investments of at least 50 million euro within the last four years (2013; 2014; 2015; 2016 including 2017 until the date of submission of the Proposal).	20	1 project awarded with 10 points 2 projects and more awarded with 20 points
b	General advisor – railway industry expert		
b.1	Experience in a role of key expert in more than one railway infrastructure project in accordance with EU railway interoperability policy with task similar to subject matter (design guidelines; engineering standards, etc.) with possible investments of at least 50 million euro within the last four years (2013; 2014; 2015; 2016 including 2017 until the date of submission of the Proposal);	10	2 projects awarded with 5 points 3 or more projects awarded with 10 points
b.2	Experience in a role of key expert in <u>cross-border railway infrastructure projects</u> in accordance with EU railway interoperability policy with task similar to subject matter (design guidelines; engineering standards, etc.) with possible investments of at least 50 million euro within the last four years (2013; 2014; 2015; 2016	10	1 project awarded with 5 points 2 projects and more awarded with 10 points

	including 2017 until the date of submission of the Proposal).		
c	Advisor – standardization expert Experience in a role of an expert in railway infrastructure project in accordance with EU railway interoperability policy (design guidelines; engineering standards, etc.). The experience must be obtained within the last five years (2012; 2013; 2014; 2015; 2016; including 2017 until the date of submission of the Proposal).	10	2 projects awarded with 5 points 3 or more projects awarded with 10 points
d	Advisor - Railway track and structures expert Participation as an expert and/or expert assistant in more than one project in accordance with EU railway interoperability policy which were completed within the last four years (2013; 2014; 2015; 2016 including 2017 until the date of submission of the Proposal).	10	2 projects awarded with 5 points 3 or more projects awarded with 10 points
e	Advisor - Signalling and telecommunications expert Experience in the design of railway signalling and/or telecommunications - participation as an expert and/or expert assistant in more than one project completed within the last five years (2012; 2013; 2014; 2015; 2016 including 2017 until the date of submission of the Proposal) and project was in accordance with EU railway interoperability policy and comprises ERTMS.	10	2 projects awarded with 5 points 3 or more projects awarded with 10 points
f	Advisor - Expert in railway power supply and overhead contact line Experience in the design of railway power supply and overhead contact line - participation as an expert and/or expert assistant in more than one project completed five years (2012; 2013; 2014; 2015; 2016 including 2017 until the date of submission of the Proposal) and one project was in accordance with EU railway interoperability policy.	10	2 projects awarded with 5 points 3 or more projects awarded with 10 points
g	Legal advisor Experience in an advisory role in more than one <u>cross-border transport infrastructure project</u> with a task similar to the subject matter (design guidelines; engineering standards, etc.) within the last five years (2012; 2013; 2014; 2015; 2016 including 2017 until the date of submission of the Proposal).	10	2 project awarded with 5 points 3 projects and more awarded with 10 points
	Total:	100	

20.5.2. The number of points obtained in accordance with Section 20.5.1 shall be multiplied by factor 0,25 (comparable weight of the criteria for the quality of Tenderer's experts involved in the provision of the Services) and then mathematically rounded to two decimal places. The score shall be inserted in the overall evaluation table as the number of points which each Proposal has scored for the quality of experts involved in the provision of the Services.

21. TENDERER CHECK PRIOR TO MAKING THE DECISION REGARDING THE CONCLUSION OF THE CONTRACT

21.1. Prior to making the decision about assigning rights to conclude the Contract, the procurement commission performs a check regarding the existence of a case for exclusion of

tenderers mentioned in Section 39¹(1) of the Public Procurement Law for each Tenderer to whom the rights to conclude the Contract may be assigned (while observing the deadline stipulated in part two). The check about the non-existence of exclusion conditions mentioned in paragraphs 1-7 of Section 39¹(1) of the Public Procurement Law is also performed for a member of a partnership (if the Tenderer is a partnership) and the entity upon whose capabilities the Tenderer relies, as well as for an indicated subcontractor who will perform at least 20 (twenty) per cent of the overall Contract value. Pursuant to the procedure stipulated in Section 39¹(7) of the Public Procurement Law the procurement commission performs checks regarding persons registered or permanently residing in Latvia and according to the procedure stipulated in Section 39¹(10) of the Public Procurement Law procurement commission performs checks regarding persons registered abroad or residing abroad, including a Tenderer's board or council members, authorized representatives or procurators, or persons authorized to represent the Tenderer in actions related to the subsidiary office and who are registered and permanently residing abroad. The above-mentioned checks are performed in accordance with the provisions of Section 39¹(11) of the Public Procurement Law.

- 21.2. If, in accordance with the information published on the day of the last data update in a public database, on the last day of proposal submission or on the day when the decision regarding the possible assignment of rights to conclude a Contract is made, the Tenderer or a person mentioned in paragraphs 9-11 of Section 39¹(1) of the Public Procurement Law have tax debts, including state mandatory insurance contributions debts, the total sum of which exceeds 150 *euro*, the procurement commission informs the Tenderer and sets a deadline – 10 days from the day of issuing or receiving information – for the submission of a certificate defined in the Section 39¹(6) of the Public Procurement Law. If this certificate regarding the Tenderer is not submitted before the deadline, the procurement commission excludes the Tenderer from participation in the open competition.
- 21.3. In the event if the subcontractor, who performs at least 20 (twenty) per cent of the overall Contract value, fails to comply with requirements stipulated in paragraphs 2-7 of Section 39¹(1) of the Public Procurement Law, the procurement commission shall demand that the Tenderer replaces such subcontractor. If the Tenderer within 10 working days from the day of receiving this demand does not submit documents about a new subcontractor, who complies with the requirements stipulated by the contract announcement or open competition procedure documents, the procurement commission excludes the Tenderer from participation in the open competition.
- 21.4. In the event if the entity upon whose capabilities the Tenderer relies to certify its compliance with Tenderer selection criteria fails to comply with requirements stipulated in paragraphs 1-7 of Section 39¹(1) of the Public Procurement Law, the procurement commission shall demand that the Tenderer replaces such entity. If the Tenderer within 10 working days from the day of issuing or receiving the requirement does not submit documents about a new person, upon whose capabilities the Tenderer relies in order to certify that its qualification complies with requirements stipulated in this Regulation, the procurement commission excludes the Tenderer from participation in the open competition.
- 21.5. In the event the Tenderer or partnership member (if the Tenderer is a partnership) fails to comply with requirements stipulated in paragraphs 1-7 of Section 39¹(1) of the Public Procurement Law and has indicated this in the Proposal, it submits an explanation and supporting evidence in order to prove its reliability and prevent the reoccurrence of same faults and shortcomings in the future. The procurement commission assesses such information in accordance with the procedure stipulated in Section 39³(4) of the Public Procurement Law. If the procurement commission deems the measures taken to be sufficient for the restoration of reliability and the prevention of similar cases in the future, it makes the decision not to exclude the Tenderer from participation in the open competition. If the measures taken are insufficient, the procurement commission makes the decision to exclude the Tenderer from further participation in the open competition procedure. If the Tenderer,

within the indicated time, does not submit the requested information, the procurement commission excludes the Tenderer from participation in the open competition.

- 21.6. If the documents, with which a Tenderer registered or permanently residing abroad can certify its compliance with requirements of Section 39¹(1) of the Public Procurement Law, are not issued or these documents are insufficient, such documents can be replaced with an oath or, if the regulatory enactments of the country in question do not allow for an oath, - with a certification by the Tenderer or by another person mentioned in Section 39¹(1) of the Public Procurement Law before a competent executive governmental or judicial institution, a sworn notary or a competent organization of a corresponding industry in their country of registration (permanent residence).
- 21.7. If the Contracting authority obtains information that one of exclusion criteria stipulated in Section 39¹ (1) of the Public Procurement Law (except tax debts) applies to the Tenderer or the persons mentioned in paragraphs 9, 10 or 11 of Section 39¹(1), the Contracting authority can verify such information at any stage of the open competition procedure until the signing of the Contract.

22. DECISION MAKING, ANNOUNCEMENT OF RESULTS AND ENTERING INTO A CONTRACT

- 22.1. The procurement commission selects the Tenderers in accordance with the set qualification requirements, verifies the compliance of the Proposals to the requirements stipulated in the Regulation and chooses the Proposal in accordance with the chosen Proposal selection criteria as described in Section 20.1 of the Regulation. The Tenderer whose Proposal shall receive the best score shall be selected.
- 22.2. Within 3 (three) working days the procurement commission informs all the Tenderers about the decision made regarding the conclusion of the contract, by sending the information by mail, by fax or electronically, using a secure e-signature and keeping the evidence of the date and mode of sending the information. The procurement commission announces the name of the chosen Tenderer, indicating:
- 22.2.1. To the refused Tenderer the reasons for refusing its Proposal;
- 22.2.2. To the Tenderer who has submitted an eligible Proposal, the characterization of the chosen proposal and the relative advantages;
- 22.2.3. The deadline by which the Tenderer, observing the deadline stipulated in Section 83 (2) of the Public Procurement Law, may submit a complaint to the Procurement Monitoring Bureau regarding the violations of the public procurement procedure.
- 22.3. If only one Tenderer complies with all the Tenderer selection requirements stipulated by the Regulation, the procurement commission prepares and includes in the open competition procedure report a justification of the fact that the set requirements for tenderer selection are objective and commensurate. If the procurement commission cannot justify that the set requirements for tenderer selection are objective and commensurate, it makes the decision to terminate the public procurement procedure.
- 22.4. If the public procurement procedure is terminated, the procurement commission within 3 (three) working days simultaneously informs all Tenderers about all the reasons because of which the open competition procedure is terminated, and informs about the deadline within which a Tenderer, observing the deadline stipulated by Section 83 (2) of the Public Procurement law, may submit an application regarding the violations of the public procurement procedure to the Procurement Monitoring Bureau.
- 22.5. The procurement commission, when informing of the results, has the right not to disclose specific information, if it may infringe upon public interests or if the Tenderer's legal commercial interests or the conditions of competition would be violated.

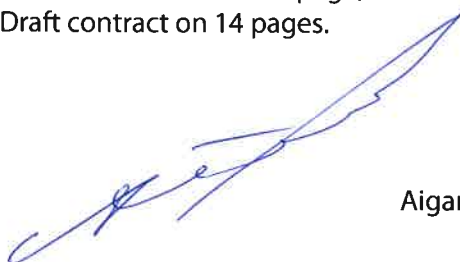
- 22.6. As soon as possible, but no later than within 3 (three) working days after informing the Tenderers about the results of the open competition procedure, the procurement commission submits for publication a report on the results of the open competition, if a decision regarding the conclusion of a public procurement contract or termination of the open competition procedure has been made.
- 22.7. Upon receiving the notification about the open competition results the selected Tenderer must:
- 22.7.1. within 5 (five) business days submit a partnership agreement if required pursuant to requirements under Section 6.1 of this Regulation;
- 22.7.2. within 10 (ten) days from receiving the invitation, to sign the Contract for the provision of the Services.
- 22.8. The Contract is concluded based on the Tenderer's Proposal in accordance with Annex 4 of the Regulation "Agreement on preparation of Design Guidelines and draft operating rules".
- 22.9. The procurement commission has the right to choose the next most economically advantageous Proposal, if the Tenderer in the time stipulated by the Regulation:
- 22.9.1. Refuses to conclude a partnership contract in the cases and deadlines defined by the Regulation, or, in the cases and deadlines defined by the Regulation does not submit a copy of the partnership contract or does not inform of the founding of a partnership company;
- 22.9.2. Refuses to conclude the Contract or does not submit a signed public procurement contract on the provision of services.
- 22.10. In such a case the Contracting authority is entitled to terminate this open competition without selecting any Proposal, or to select the Proposal with the next best score. For either of these decisions a written decision must be made.
- 22.11. Prior to making the decision regarding the conclusion of the contract with the next Tenderer, the procurement commission assesses the next Tenderer in accordance with the conditions in Section 56(6) of the Public Procurement Law. If the next chosen Tenderer also refuses to conclude the contract or does not submit a signed public procurement contract within the deadline set by the procurement commission, the procurement commission makes the decision to terminate the open competition without choosing a proposal.

23. TERMINATION OF THE OPEN COMPETITION

- 23.1. The Company can at any moment terminate the open competition procedure if it has an objective reason, including if the prices of submitted Proposals exceed the financial means of the Company. The procurement commission sends the information mentioned in Clause 22.4 of this Regulation to all Tenderers and submits an announcement regarding the results of the open competition procedure for publication, where they indicate the circumstances which prompted the termination of the procedure.

Enclosed: Annex No. 1 – Sample of the application on 4 pages;
 Annex No. 2 – Technical Specification on 13 pages;
 Annex No. 3 – Form 1 and Form 2 on 1 page;
 Annex No. 4 – Draft contract on 14 pages.

Procurement commission
chairman



Aigars Kivliņš

[form of the Tenderer's company]

2016.____._____
No_____

APPLICATION FOR PARTICIPATION IN THE PROCUREMENT
"Design guidelines for Rail Baltic / Rail Baltica Railway"

Tenderer _____, reg. No. _____,
(Name of the Tenderer or names of the members of a group of suppliers)

represented by _____
(Name, surname and position of the manager or an authorized person)

by submitting this application:

1. We confirm participation in the open competition organized by the RB Rail AS "Design guidelines for Rail Baltic / Rail Baltica Railway" No RBR 2017/1;
2. We offer to deliver services in accordance with the Technical Specification for the following price in accordance with the following calculation:

No	Position	Name	Hourly rate (excl. Vat), EUR	No of hours	Total fee (excl. VAT), EUR
Situation analysis (WP1)					
Proposed experts:					
1	Project manager				
2	General advisor – Railway industry expert				
3	Legal advisor				
4	Advisor – Standardisation expert				
5	Advisor – Railway track and structures expert				
6	Advisor – Signalling and telecommunications expert				
7	Expert in railway power supply and overhead contact line				
Other experts (indicate all other experts which will be involved in the execution of the Contract, if any)					
8					
9					
10					
...					
Drafting of operating rules (WP2)					
Proposed experts:					

No	Position	Name	Hourly rate (excl. Vat), EUR	No of hours	Total fee (excl. VAT), EUR
1	Project manager				
2	General advisor – Railway industry expert				
3	Legal advisor				
4	Advisor – Standardisation expert				
5	Advisor – Railway track and structures expert				
6	Advisor – Signalling and telecommunications expert				
7	Expert in railway power supply and overhead contact line				
Other experts (indicate all other experts which will be involved in the execution of the Contract, if any)					
8					
9					
10					
...					
Elaboration of Design Guidelines (WP3)					
Proposed experts:					
1	Project manager				
2	General advisor – Railway industry expert				
3	Legal advisor				
4	Advisor – Standardisation expert				
5	Advisor – Railway track and structures expert				
6	Advisor – Signalling and telecommunications expert				
7	Expert in railway power supply and overhead contact line				
Other experts (indicate all other experts which will be involved in the execution of the Contract, if any)					
8					
9					
10					
...					
Total fee (excl. VAT 21%)					
VAT 21%					

No	Position	Name	Hourly rate (excl. Vat), EUR	No of hours	Total fee (excl. VAT), EUR
Total fee including VAT 21%					

Other costs (please indicate them)					
No	Cost	Unit	Amount	Price per unit (excl. VAT), EUR	Total price (excl. VAT), EUR
Situation analysis (WP1)					
Drafting of operating rules (WP2)					
Elaboration of Design Guidelines (WP3)					
Total costs (excl. VAT 21%)					
VAT 21%					
Total costs including VAT 21%					

On the basis of the calculation above we hereby propose to perform the Services in accordance with the Technical Specification and the Contract for the contract price:

Proposed contract price (excl. VAT), EUR	VAT, EUR	Total proposed contract price EUR (including VAT)

3. We confirm that this Financial Proposal includes all fees and costs related to the performance of the Services in accordance with the Technical Specification and the Contract. We confirm that fees and costs which are not indicated separately are included in one or another of the indicated fees and costs.

4. We declare that for the purposes of qualifying for the open competition we rely on the capabilities of the following entities:

No	Name, registration number and registered address of the entity	Capabilities on which the Tenderer relies
1.		
2.		
3.		
4.		

5. We declare that during the execution of the contract we will have sub-contractors as stated below and confirm that the list is complete:

No	Name of Subcontractor	Part of the Services to be performed by Subcontractor		
		Description of the tasks to be performed by subcontractor	Value (EUR)	% from the Contract Price
1.				
2.				
3.				
4.				
		Total:		

6. We confirm that the Regulation for the open competition is clear and understandable, we do not have any objections and complaints and in the case of granting the right to enter into a contract we shall undertake to fulfil all conditions of this Regulation as well as enter into a procurement contract in accordance with the draft contract enclosed with the Regulation.

7. We confirm the period of validity of our Proposal for 90 days from the day of opening of the Proposal.

(Signature)

Address of the Tenderer,

telephone (fax) number, e-mail address.

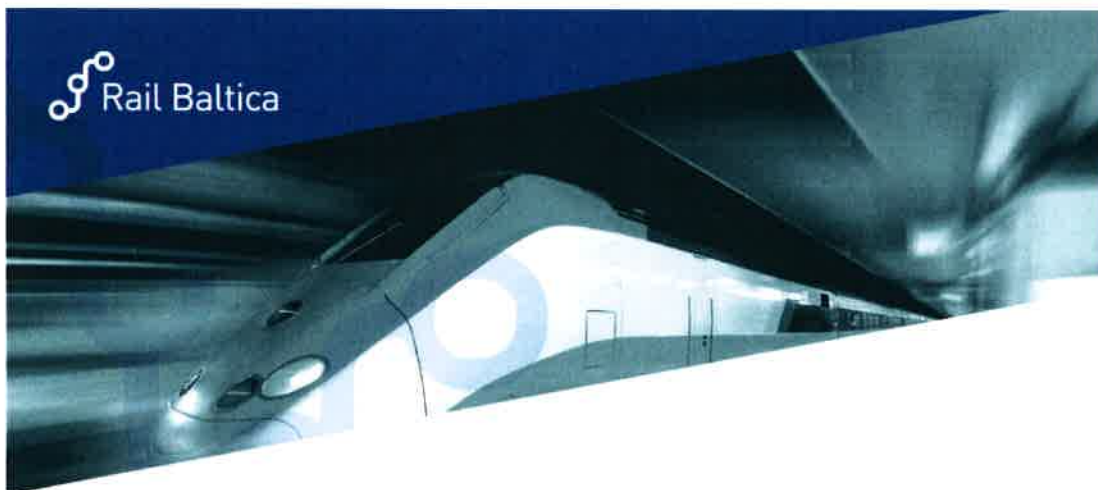
Position, name and surname of the manager or the authorized person of the Tenderer



Co-financed by the European Union
Connecting Europe Facility

TECHNICAL SPECIFICATION

DESIGN GUIDELINES FOR RAIL BALTIC / RAIL BALTICA RAILWAY



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INTRODUCTION

The Baltic countries Estonia, Latvia and Lithuania have historically been linked to the East-West railway transport axis using the 1520mm gauge system. Currently there is no efficient 1435 mm railway connection on the Warsaw-Kaunas-Riga-Tallinn axis; there are missing links or significant bottlenecks. The vast majority of the North-South freight is being transported by road transport, there are no direct passenger services and the overall accessibility in the region is low.

The contracting authority RB Rail AS (hereinafter RBR) was established by the Republics of Estonia, Latvia and Lithuania to coordinate the development and construction of the Global Project. The shares of RBR are owned equally by OU "Rail Baltic Estonia", SIA "Eiropas Dzelzceļa līnijas", UAB "Rail Baltica statyba". According to clause 2.1 of the Shareholder's Agreement, the main business of RBR is "design, construction and marketing (including branding) of the Railway. The owner of the Railway infrastructure in Estonia, Latvia, and Lithuania shall be the State where the infrastructure is located". However, there is no decision yet on legal and organizational structure for the post-construction phase of the railway.

The Global Project is the development of a fast conventional standard gauge railway line on the North Sea – Baltic TEN-T Core Network Corridor (Rail Baltic(a) II) linking the three Baltic states with Poland and the rest of the EU thus eliminating the existing bottlenecks and missing links. The new railway line shall comply with requirements of a P2/F1 category railway line as defined by the Technical specifications for interoperability.

To proceed with the design phase of Rail Baltic / Rail Baltica a need for common design guidelines was identified. These harmonized guidelines will ensure full interoperability of the line at design stage and will contribute as well as to investment and operational cost efficiency of Rail Baltic / Rail Baltica infrastructure.

ABBREVIATIONS AND TERMS

1. **Rail Baltic / Rail Baltica, Project** - a future railway line preventing missing links in the European railway network and improving the existing network infrastructure on the route Warsaw – Kaunas – Riga – Tallinn – Helsinki, and ensuring full railway interoperability and better railway usage indicators in passenger and cargo traffic. The project ensures Baltic State integration into the EU railway area. The project is the part of the TEN-T core network North Sea-Baltic corridor. The total investment cost of the project is being estimated at 4.8 billion euro;
2. **Railway** – new fast conventional double track electrified railway line with the maximum design speed of 240 km/h and European standard gauge (1435 mm) on the route from Tallinn through Pärnu (EE), Riga (LV), Panevezys (LT), Kaunas (LT) to Warsaw (PL);
3. **Contractor** - service provider awarded with rights on elaboration of draft operation rules and design guidelines of Rail Baltic / Rail Baltica railway;
4. **Contracting authority** - "RB Rail" AS - a joint venture of Estonia, Latvia and Lithuania for the development of Rail Baltica project and construction of the railway;
5. **Service, study** - service of elaboration of Rail Baltic / Rail Baltica design guidelines;
6. **Design guidelines** – set of predefined and standardized technically and economically justified engineering and design solutions for Rail Baltic / Rail Baltica to be applied at design, construction and operation phases of the Railway. Design guidelines will be mandatory for all stakeholders involved in design and construction of the Railway;
7. **Operating rules** – draft regulatory basis of Rail Baltic / Rail Baltica Railway operations;
8. **CEF** – Connecting Europe Facility;
9. **National studies** - detailed engineering and feasibility studies on implementation of Rail Baltic / Rail Baltica project in each of the three Baltic states, covering EIA, preliminary design, feasibility studies, spatial planning and similar activities;
10. **WP** - Work package;
11. **EU** - European Union;
12. **TSI** – Technical specifications for interoperability;
13. **Technical work group, TWG** – group of experts from stakeholders and involved parties nominated by the Contracting authority;

1 BACKGROUND AND OBJECTIVES

1.1 RAIL BALTIC / RAIL BALTICA PROJECT

14. The Baltic states at present do not possess any harmonized engineering standards and / or design guidelines and rules that would concern the standard gauge railway lines with performance parameters of the line category P2/F1 as defined by the TSI INF.
15. Technical experts from the involved countries have established the major technical parameters of the line. The results of this work - *Technical standards and specifications Manual of Rail Baltic / Rail Baltica Railway* (Appendix 1) - is the basis for this study and these should not be changed unless it is explicitly proved by the Contractor and accepted by the Contracting authority that any deviation from the agreed technical parameter would be beneficial in the long run.
16. Main technical parameters of the Railway shall correspond to traffic code P2-F1 as per INF TSI (Commission Regulation 1299/2014/EU) and shall have main technical parameters: double track, design speed on main track 240 km/h, gauge GC, design speed on side tracks minimum 100 km/h, minimum axle load 22.5 t, distance between track centres at least 4.20 m on main tracks, distance between two sided passing loops approximately 50 km and crossovers approximately 25 km but staged according to train traffic forecast, all road crossings only as above or below grade crossings (segregated grade crossings), fencing for the entire length, noise barriers where needed, ERTMS Level 2 with possible update to the newest version, communications system GSM-R with a view to accommodate the new generation railway communications standard, electrification 2x25 kV AC, to accommodate freight trains of up to 740 m length (with the possibility to extend to 1050 m in the long term) and with maximum speeds of 120 km/h, and to accommodate passenger trains of up to 250 m length (with the possibility to extend to 400 m in a long term) and with maximum speeds of 240 km/h.

1.2 AIM OF THE SERVICE

17. The principal objective of the study is to work out the technically and economically most feasible set of standards and rules for the design of the Railway as mandatory design guidelines.
18. The purpose of the design guidelines is to provide engineers a standardized approach to Rail Baltic/Rail Baltica design. This prevents additional costs from being incurred when a design solution already exists and assists maintainers at the stage of operation of the Railway. The guidelines include a listing of typical engineering values for all subsystems of the Railway.
19. The design guidelines will be mandatory for design, construction and operations of the Rail Baltic/Rail Baltica infrastructure and will be endorsed by the respective national authorities, if applicable.
20. Along with the design guidelines, a preliminary regulatory basis for Railway launch and operation – Operating rules - must be prepared prior to beginning the design process. Timely operating rules will provide more cost and time effectivity for the Rail Baltic/Rail Baltica project implementation. However, these rules will not be a complete set needed for the Railway operation. This preliminary regulatory basis will cover primarily the matters relevant for the infrastructure development (i.e. to be considered already at design and construction phase) only.

1.3 TARGET GROUPS AND STAKEHOLDERS OF THE STUDY PROJECT

21. Target groups of the study are comprised of entities involved in the Rail Baltic Rail Baltica project activity implementation, infrastructure construction and operation.
22. At a minimum, the following authorities with the following roles shall be involved in the study:
 - RB Rail AS – a joint venture of Estonia, Latvia and Lithuania for the design, construction and marketing of the Rail Baltic/Rail Baltica project and construction of the Railway;
 - Ministry of Economic Affairs and Communications, Republic of Estonia – an Estonian authority responsible for the acceptance of national rules and standards in the field of transportation in Estonia;
 - Ministry of Transport, Republic of Latvia – a Latvian authority responsible for the acceptance of national rules and standards in the field of transportation in Latvia;
 - Ministry of Transport and Communications, Republic of Lithuania - a Latvian authority responsible for the acceptance of national rules and standards in the field of transportation in Lithuania;
 - Rail Baltic Estonia OÜ - responsible for implementing certain Rail Baltic/Rail Baltica design and construction activities in the territory of Estonia;
 - Technical regulatory authority - responsible for implementing certain Rail Baltic/Rail Baltica activities in planning stage in the territory of Estonia, an Estonian national safety authority;
 - "Eiropas Dzelzceļa līnijas" Ltd. – responsible for implementing certain Rail Baltic/Rail Baltica design and construction activities in the territory of Latvia;
 - The State Railway Technical Inspectorate – the Latvian national safety authority;
 - AB „Lietuvos geležinkeliai “- responsible for implementing certain Rail Baltic/Rail Baltica design and construction activities in the territory of Lithuania;
 - „Rail Baltica Statyba “- responsible for implementing certain Rail Baltic/Rail Baltica design and construction activities in the territory of Lithuania;
 - The State Railway Inspectorate – the Lithuanian national safety authority;
 - Respective national regulatory bodies.
23. Authorities mentioned above may nominate other authorities and implementing bodies or affiliated entities for communication during the preparation of draft operation rules and design guidelines.

1.4 DOCUMENTS AND STUDIES TO BE TAKEN INTO ACCOUNT

24. The Contractor shall consider the following non-exhaustive list of documents, studies, study projects and spatial development planning documents:
 - Technical standards and specifications Manual of Rail Baltic/Rail Baltica Railway (provided by Contracting authority);
 - national Rail Baltic/Rail Baltica studies, e.g. Environmental impact assessments and preliminary designs, spatial planning studies;

- feasibility study „Feasibility study on the European standard gauge railway line in Estonia, Latvia and Lithuania (Rail Baltica corridor)” carried out by AECOM Ltd (provided by the Contracting authority);
- North Sea - Baltic Core network corridor study (2014) (available to the public);
- Other significant information and documents with either direct or indirect relation to the study project, or providing background information;
- Relevant standards and Technical specifications for interoperability.

2 CONTENT OF THE ASSIGNMENT

2.1 OVERALL FRAMEWORK

25. The Contractor shall make extensive technical analysis and quantitative economic assessment to identify the most feasible level of standardization to be applied at the design and operational stages of the Rail Baltic / Rail Baltica railway infrastructure elements. The study shall be carried out in work packages according to three general stages:
- **Situation analysis (WP1)** (covers best practice study on application of engineering standards / design guidelines, screening of national railway operation and construction legislation and national study documents for the Rail Baltic/Rail Baltica project, in order to identify a set of most relevant railway construction and railway operational processes to be described and railway infrastructure elements to be standardized);
 - **Drafting of operating rules (WP2)** (covers preparation of draft operating rules for the Rail Baltic/Rail Baltica railway);
 - **Elaboration of design guidelines (WP3)** (covers elaboration of technically and economically justified standard design values (or range of values) for railway infrastructure elements).
26. At each stage according to section 3.4 of this technical specification, the Contractor shall submit reports to the Contracting Authority along with a presentation of the progress made within each stage, based on which the latter may take relevant decisions on the further fulfilment of the service.

2.2 SITUATION ANALYSIS (WP1)

27. The Contractor shall carry out detailed context analysis in order to propose the most effective Railway organization model and provide the scenario for integration of Railway within national legislation framework in each of the Baltic states. Consecutively framework for draft operating rules and technically and economically justified design guidelines shall be defined.
28. **WP1.1 – Screening of national Railway legislation** - the Contractor shall conduct national railway system analysis in the Baltic states focusing on:
- 28.1. Actors, responsibilities, and roles within design, construction, management, maintenance and operations;
 - 28.2. Processes relevant for applying design guidelines (especially in the field of railway design and construction);
 - 28.3. Rulemaking and supervision;

- 28.4. Current national and EU policies and future changes;
29. Report on key aspects to be taken into consideration while preparing design guidelines and applying design guidelines in Railway design and construction.
30. **WP1.2 - Screening of national Rail Baltica studies** - identification of factors of importance for drafting operating rules and design guidelines. Special focus shall be paid to functional and technical requirements addressed / engineering solutions applied / envisaged construction practices.
31. Report on current state of designing the Railway shall be provided on results of screening national studies. The report shall identify best practices in Railway design and further harmonisation needs. Moreover, the report shall identify elements to be included in design guidelines.
32. **WP 1.3 - Best practice review of railway lines with performance parameters of the line category P2/F1 according to definition in TSI INF**– study of best practice on design guideline development and application in standard gauge railway projects within EU.
33. The Contractor has to study at least two most similar countries or cases to Rail Baltic/Rail Baltica railway. Prior to best practice study, the Contractor must identify and present to the Contracting Authority for its approval and selection at least five countries. The best practice study shall cover:
- identification and examination of railway operation rules and appropriate legislation with immediate impact on railway infrastructure development;
 - compilation and benchmarking of all relevant infrastructure engineering solutions / design guidelines;
34. As a result, the best practice study set of recommendations for the Rail Baltica project must be prepared.
35. **WP1.4 –Definition of the Railway design model.** The Contractor, based on the studies in WP1.1 to WP1.3 shall propose the most effective organization and operation model for Rail Baltic/Rail Baltica railway design.
- 35.1. As a result of WP1.4, a proposal for the Railway design organization and operation model is prepared. The design guidelines will derive from this model. The model shall define how the design guidelines are legally binding to any stakeholder involved in the Railway design process and how to consider different national requirements as to the construction process and technical requirements (i.e. climate, geology, hydrogeology, etc.).
- 35.2. Based on the model proposed by the Contractor, the Contracting authority will take the decision to adapt design guidelines from other EU country or to elaborate new design guidelines.
- 35.3. Therefore, the Contractor shall consider 2 different possible outcomes in fulfilment of the Service:
- 35.3.1. (1) Application guidelines for existing design guidelines,
- or
- 35.3.2. (2) Elaboration of design guidelines.
- 35.4. The Contracting authority decision on which option to continue might take up to 30 days.
36. **WP 1.5 - Definition of the scope for Design guidelines** - the Contractor shall identify a comprehensive amount of railway subsystem elements and values that are technically and economically justified to be included in the design guidelines. Subsystems include at least:
- 36.1. Infrastructure:
- 36.1.1. Track superstructure;
 - 36.1.2. Track substructure;
 - 36.1.3. Engineering structures (bridges, tunnels, level crossings etc.);
 - 36.1.4. Passenger terminals, stations, platforms, zones of access, incl. PRM infrastructure;

36.1.5. Safety and protective equipment.

36.2. Power supply infrastructure.

36.3. Signalling and telecommunications infrastructure.

37. As the result of scope definition, for design guidelines an extensive list of categorized railway infrastructure elements and values should be prepared for further design guideline adaptation or elaboration in WP3.

2.3 DRAFTING OF OPERATING RULES (WP2)

38. **WP2.1 – Drafting Operation rules** – upon receiving acceptance from the Contracting Authority for the scope, the contractor shall elaborate on the railway draft operation rules only to the extent needed for drafting design guidelines.
39. A set of procedures for designing, construction and testing of Railway infrastructure will provide the basis for pre-defined and agreed project management activities and methods by Implementing bodies.
40. The Task shall be in close cooperation with assigned representatives from regulatory and safety bodies as well as the Technical work group set by the Contracting authority.
41. As a result of WP2 draft operation rules, the manual is prepared by the Contractor along with recommendations on implementation and railway operation launch scenario.

2.4 ELABORATION OF DESIGN GUIDELINES MANUAL (WP3)

42. **WP 3.1** - At this stage the Contractor, based on the situation analysis and upon receiving the decision from the Contractor, shall carry out adaptation of existing design guidelines in another EU country or detailed elaboration of design guidelines;
43. The Contractor shall propose the technically and economically justified standard design values (or ranges of values, if justified) for all parameters accepted by the Contracting authority.
44. Both benchmarking and bottom-up costing methods will be used to produce the most reliable results. Lifecycle cost estimate comparison must be conducted for proposed design values. Benchmarking cases must be proposed by the Contractor and agreed by the Contracting authority during the work process.
45. The Task also includes assessment of the threshold values established by TSI for the Rail Baltica project in order to establish whether different values within these thresholds would benefit the Rail Baltica project.
46. In the process of design guideline elaboration, the Contractor must facilitate through the design guideline development process the experts group (TWG) consisting of designated stakeholder experts and engineers.
47. **WP 3.2 – Preparation of a change management procedure** – a Change management procedure that describes the process and responsibility for updating design guidelines of Rail Baltic/Rail Baltica Railway shall be prepared. Stakeholders and responsible authorities shall be involved in the process of preparing the change management procedure.
48. As a result of WP3, the design guideline manual(s) shall be delivered.

3 CONTRACT'S PROJECT MANAGEMENT

3.1 MANAGEMENT STRUCTURE AND COOPERATION

49. The principal decisions are made by the Contracting authority. In addition to settling operative and professional issues, the Contracting authority will establish a Technical Work group, which will include stakeholder representatives.
50. The organisational scheme of the study has to take into account that it will be conducted in 3 countries while the main Contracting Authority is in Riga. The Contractor is required to propose a Project Management Structure which is adequate to that scheme to ensure a smooth and efficient conduct of the project.
51. All experts must be free from conflicts of interest in the tasks or responsibilities accorded to them.
52. The Contractor shall propose an optimum structure for the Project Team, based on the Services Requested in the terms of reference, and where possible propose a core team with cross-functional roles.
53. The Contractor shall provide Technical Work Group facilitation.
54. Progress meetings with the Contracting authority are held at least once per month.
55. Regular project management meetings shall be scheduled at least 2-3 times per month.
56. If needed, ad-hoc meetings can be arranged, which may be initiated both by the Contractor, or the Contracting Authority,
57. Upon a request by and in the term (no less than within two business days) set by the Contracting Authority the Contractor shall prepare informative materials and presentation within this study demonstrating both main conclusions at that time, an overview of the project progress.
58. Upon a request by the Contracting Authority, the Contractor shall take part and, where necessary, prepare informative materials or work reports in meetings, forums, discussions, etc. organised by the Contracting Authority or where the Contracting Authority shall take part. Such events are, for instance, Rail Baltica Task Force meetings, workgroups, meetings in the European Commission, meetings with stakeholders in Latvia, Lithuania, Estonia, Poland, or Finland, conferences, discussions, etc.
59. Working materials (including a PowerPoint presentations), agenda of the meeting, list of participants shall be submitted no later than one business day prior to the meeting. Decisions taken at the meeting are registered in the minutes of the meeting. The writing of minutes is done by an expert assigned by the Contractor. Minutes of the meeting are sent by email to the meeting participants within two business days after the meeting. Where within two working days after minutes of the meeting have been sent the participants have not submitted any comments, the minutes of meeting are deemed approved. Approved minutes of meeting are signed by the project managers of the Contracting authority and the Contractor during the next meeting.
60. Initiated by the Contracting authority the Contractor's project manager of the study, his deputy or any other competent Contractor's exerts may be invited to take part in the meetings organised by the Contracting authority or meetings, where the Contracting authority shall take part, together with representatives of other authorities.
61. Any official correspondence within the Contract must be done in paper.
62. Language for official communication - English.

3.2 PROJECT SCHEDULE

63. The deadline for the performance of the procurement contract shall be up to 24 weeks from its commencement date.
64. The Contractor shall provide in its work programme enough time for the review of submitted reports and deliverables by representatives of the Contracting Authority and other stakeholders, leaving at least 14 days for the review and preparation of their statement.
65. The Contractor shall plan and schedule activities and tasks so the time available for the Study is utilized effectively.

3.3 PROJECT EXECUTION SITE

66. The primary base for the project will be the office facilities of the Contractor. In order to perform the project tasks visits within the region to make the interviews, site visits, and field research will have to be carried out.
67. The successful Contractor shall make his own arrangements for office facilities, personal computers and other facilities of appropriate performance and security standard for the production of study results.
68. The Contractor shall ensure that experts involved in Project are adequately supported and equipped. In particular, he shall ensure that there is sufficient administrative, secretarial and interpreting provision to enable experts to concentrate on their primary responsibilities. The Contractor must also transfer funds as necessary to support its activities under the Contract, and ensure that his employees are paid regularly and in a timely manner.
69. Costs for project administration and office operation including telecommunication costs shall be included.
70. If the Contractor is a consortium, the arrangements should allow for the maximum flexibility in project implementation.

3.4 REPORTS AND DELIVERABLES

71. Inception Report is required within 2 weeks after commencement of the Contract. Any clarifications of the present Technical Specifications shall be carried out during the inception period of the Project, and shall be agreed with the Contracting authority. Inception report:
 - a) shall demonstrate the understanding of assignment by the Contractor; and
 - b) shall demonstrate the further implementation plan of the study, including the schedule of workgroup meetings, and a detailed work programme of other works.
72. Monthly progress reports shall be drafted in digital editable format (*.ppt, *.pptx) and shall be submitted to the Contracting authority one business day prior to presentation of the report in a progress meeting. A progress report shall be short and cover all aspects of the service in terms of its content, incl. information on the work progress and conclusions within working tasks, as well as questions and issues. A progress report may contain short technical report on the course of work by the Contractor. The aim of the progress reports is:
 - 1) To receive timely information from the Contractor regarding progress of works and initial conclusions and recommendations;
 - 2) To ensure the Contractor with the possibility of receiving duly comments, opinions, and recommendations on issues related to service performance.
73. There must be a Final Completion Report at the end of the period of execution. The Draft Completion Report must be submitted at least 1 week prior to expiry of the Contract.

74. Note that Progress Report and Completion Report are mainly administrative reports on the course of performance of the service.
75. The content of the deliverables/ reports to be drafted and delivered are summarized in the table below.

Report	Main contents
Inception report	Detailed project execution plan Detailed methodology including proposal on the best practice study countries Project risk and issue evaluation and management plan
First interim report	Full list of technical parameters (design and operational) used for analysis Benchmarking study of engineering standards of the selected countries Technical feasibility analysis by each parameter Economic feasibility assessment by each parameter Proposal of the most feasible list of design and operational technical parameters to be standardized throughout the line Annex 1: National legislation study report Annex 2: Report on national studies screening Annex 3: Best practice study report Annex 4: Proposal for Railway organization and operation model. Annex 5: List of operational values for further elaboration of draft operation rules Annex 6: List of railway infrastructure elements and values for further elaboration of design guidelines
Second interim report	Benchmarking study of standard values of the selected parameters; Bottom-up costing analysis (investment and operational costs) for different value options of the selected parameters; Proposal of the most feasible values of design and operational technical parameters to be standardized throughout the line; Safety risk assessment for the proposed standard values; Change management procedure. Annex 1: Rail Baltica Operation rules manual (draft) Annex2: Rail Baltica Design guidelines manual
Second interim report (revised)	Revised contents as per RB Rail AS comments
Final report	Executive Summary Methodology Technical analysis Economic analysis Risk analysis Conclusions and recommendations Annex 1. Rail Baltica Operation rules manual (draft) Annex 2. Rail Baltica Design guidelines manual
Final Completion report	Summary of execution of the Contract

(*) CD: commencement date of the contract

3.5 SUBMISSION AND APPROVAL OF REPORTS AND DELIVERABLES

76. Draft Final Report and Final report shall be submitted in English. Inception, Progress and Completion Reports, and Final Report must be written in English. All reports shall be submitted in hard and soft copy. The Contractor must submit the documents (paper and soft versions on CD) in person or by courier to the Contracting authority's representative.
77. Time schedule of deliverables and approval thereof is presented in the following table. The Contractor may submit updated report and deliverable submission schedule included within the project inception report only in reasonably justified cases.
78. As the result of scope definition for design guidelines - extensive list of categorized railway infrastructure elements and values should be prepared for further design guideline elaboration.

Deliverables/Reports	No. of copies	Submission schedule	Approval through Contracting Authority
Inception Report	4 hard copies, 1 soft copy	CD* + 2 weeks	2 weeks after reception
Interim Report 1	4 hard copies, 1 soft copy	CD* + 10 weeks	1 month after reception
Interim Report 2	4 hard copies, 1 soft copy	CD* + 18 weeks	1 month after reception
Interim Report 2 (revised)	4 hard copies, 1 soft copy	CD* + 20 weeks	1 month after reception
Final Report	4 hard copies, 1 soft copy	CD* + 23 weeks	1 week after reception
Final Completion Report	4 hard copies, 1 soft copy	CD* + 23 weeks	1 week after reception

(*) CD: commencement date of the contract

79. Reports and documents will be officially delivered and accepted when the Contracting authority or its authorized representative will approve the receipt of the document in writing by signing the acceptance-delivery protocol.

Experience of Tenderer
[Form No 1]

No	Name of project	Date of completion of the contract	Contracting authority	Description of the responsibilities according to contract, which characterize the experience, mentioned in respective subsection of Section 5.2	Total value of the investments in the project (thousand EUR*, excl. VAT)	Contract price (thousand EUR*, excl. VAT)	Contact information for references
1.							
...							

Experience of key expert
[Form No 2]

No	Expert's role in team (in accordance to Section 5.3)		Name, Surname			
1.	Education (Educational institution)	Period of studies (from ... to ...)	Obtained degree (-s)	Description of studies		
1.1.						
...						
Professional experience (relevant to subsections of Section 5.3 for respective expert)						
2.	Employer, Project, Contracting authority	Position according to contract	Date of completion of contract, project or task	Description of the responsibilities according to contract, which characterize the experience, mentioned in respective subsection of Section 5.3	Description of project (period, scope, value of contract/project, funding, etc.)	Contact information for references
2.1.						
2.2.						
...						

I confirm that I have consented that my candidature is proposed as an expert in the open competition organised by Rail Baltic AS "Design guidelines for Rail Baltic / Rail Baltica Railway". I confirm that in case the Tenderer [●] will conclude the contract as the result of the open competition, I will participate in the execution of the contract.

/signature/

**AGREEMENT
ON
PREPARATION OF DESIGN GUIDELINES AND DRAFT
OPERATING RULES**

between

RB Rail AS

and

[company name of the Contractor]

Dated [date] [month] 2017

This AGREEMENT ON PREPARATION OF DESIGN GUIDELINES AND DRAFT OPERATING RULES (hereinafter, the "Agreement") is entered into in Riga, on [date] [month] 2017 (hereinafter, the "Effective Date") by and between:

RB Rail AS, registration number: 40103845025, having its registered address at 3 Gogoļa Street, Riga, LV-1050, Latvia (hereinafter, the "Company"), represented by [name] [surname], the [position], acting on the basis of the Articles of Association,

and

[company name of the Contractor], registration number [number], having its registered address at [address] (hereinafter, the "Contractor"), represented by [name] [surname], the [position], acting on the basis of [document],

each individually referred to as the "Party" and collectively referred to as the "Parties".

BACKGROUND INFORMATION:

- A. The core business of the Company is design, construction and marketing (including branding) of the new fast conventional double track electrified railway line with the maximum design speed of 240 km/h and European standard gauge (1435 mm) on the route from Tallinn through Pärnu-Riga-Panevezys-Kaunas too Lithuanian-Polish Border (hereinafter, the "Railway"), financed under the auspices of Connecting Europe Facility (hereinafter, "CEF").
- B. On [date] [month] 2016 the Company has announced a public tender entitled "Design Guidelines and Draft Operating Rules Elaboration" for the development of a set of predefined and standardized technically and economically justified engineering and design solutions for the Project to be applied at design, construction and operation phases of the Railway and a draft regulatory basis of Project Railway operations.
- C. On [date] [month] 2016 the Contractor submitted proposal in response to the tender announced by the Company (hereinafter, the "Proposal") and committed to develop and deliver the Design Guidelines and Operating Rules.
- D. The Contractor has significant experience, qualifications and skills in technical analysis and quantitative economic assessment.
- E. The Company wishes to engage the services and expertise of the Contractor toward development of Design Guidelines and Operating Rules on the terms and conditions hereinafter set forth and the Contractor wishes to accept such an engagement.
- F. The outcome of the public tender was favourable to the Contractor and, pursuant to the decision of the Company dated [date] [month], the Contractor was awarded the right to enter into the Agreement and allowed to proceed with the development of the Deliverables.

Now, therefore the Parties have agreed as follows:

1. DEFINITIONS

Unless the context otherwise requires, the following capitalized terms used in this Agreement shall have the following meaning:

- 1.1 "Agreement" – this Design Guidelines and Draft Operating Rules Elaboration Service Agreement between the Company and the Contractor, including all its annexes;

- 1.2 "CEF" – as defined at Recital A of this Agreement;
- 1.3 "Company" – RB Rail AS, Unified Registration Number 40103845025, having its registered address at 3, Gogoļa Street, Riga, LV-1050, a joint venture of Estonia, Latvia and Lithuania for the development of the Project and construction of the Railway;
- 1.4 "Confidential Information" – as defined in Sections 7.1 and 7.2;
- 1.5 "Contractor" – [details of the Contractor];
- 1.6 "Deliverables" – all documents, materials and reports as defined in Section 3.1 of the Agreement, including, without limitation, the Final Completion Report;
- 1.7 "Design Guidelines" – as defined in Annex A of the Agreement;
- 1.8 "Effective Date" – the date first above in this Agreement written;
- 1.9 "EU" – European Union;
- 1.10 "Fee" – as defined in Section 4.1 of the Agreement;
- 1.11 "Final Completion Report" – as defined in Section 3.1.6. of the Agreement;
- 1.12 "Intellectual Property Rights" – as defined in Section 10.2 of the Agreement;
- 1.13 "National Studies" – detailed engineering and feasibility studies on implementation of the Project in each of the three Baltic states, covering environmental impact assessments, preliminary designs, feasibility studies, spatial planning and similar activities;
- 1.14 "Operating Rules" – as defined in Annex A of the Agreement;
- 1.15 "Party/Parties" – each of the Company and the Contractor, individually and collectively;
- 1.16 "Project" – a future railway line preventing missing links in the European railway network and improving the existing network infrastructure on the route Warsaw – Kaunas – Riga – Tallinn – Helsinki, and ensuring full railway interoperability and better railway usage indicators in passenger and cargo traffic. The Project ensures Baltic State integration into the EU railway area. The Project is the part of the TEN-T core network North Sea-Baltic corridor. The total investment cost of the Project is being estimated at 4.8 billion euro;
- 1.17 "Proposal" – as defined at Recital C of the Agreement;
- 1.18 "Railway" – as defined at Recital A of the Agreement;
- 1.19 "Service" – a set of activities pertinent to the development of Design Guidelines and Operating Rules
- 1.20 "Term" – as defined in Section 8.1.1. of the Agreement;
- 1.21 "Third Persons" – as defined in Section 2.4.1 of the Agreement;
- 1.22 "TSI" – Technical specifications for interoperability;
- 1.23 "Technical Work Group" – group of experts selected by stakeholders and nominated by the Contracting authority;

2. SERVICE ORDER

2.1 The Company hereby orders the Contractor and the Contractor hereby undertakes to develop and supply to the Company the Design Guidelines and Operating Rules conforming to the following requirements and specifications:

2.1.1 the specifications and requirements contained in the Request for Proposal, including the Technical Specification, attached as Annex A to this Agreement;

2.1.2 the terms and conditions contained in the Proposal of Annex B to this Agreement;

2.1.3 applicable requirements and recommendations of the EU;

2.1.4 applicable legislative acts and other binding regulations of the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania;

2.1.5 specific instructions of the Company.

2.2 The Contractor agrees to develop the Deliverables in a conscientious, diligent, expeditious, proper and workmanlike manner according to the schedule set forth in Section 3 of this Agreement. The Contractor undertakes to use its best efforts, skill and experience in developing the Deliverables and to allocate toward development of the Deliverables qualified and suitable key personnel. The Contractor agrees to devote such time as is reasonably required to fulfil its duties hereunder.

2.3 This Agreement shall not prevent the Contractor from undertaking other consultancy or project management services, provided that the undertaking of such services does not cause a breach of any provision of this Agreement.

2.4 The description of Services contemplated under this Agreement and specific commitments by the Contractor covers all steps, acts and measures, including those not explicitly provided for in the Agreement, necessary for the efficient, proper and workmanlike development of high-quality Deliverables. In the event performance of additional steps or acts and/or undertaking of additional measures not explicitly stated in this Agreement is required for the attainment of the objectives of this Agreement, the performance of such steps or acts and/or undertaking of such measures shall be deemed a contractual obligation of the Contractor. Such steps, acts and/or measures shall include, without limitation, the following:

2.4.1 conduct of interviews with the Company, its executives, officers, employees, shareholders, agents, consultants and other stakeholders relevant to execution of the Project; for the purposes of this Section 2.4, stakeholders shall include, without limitation, authorities and institutions of the EU, contracting authorities, local authorities or municipalities, companies or natural persons, associations or organisations in Estonia, Latvia, Lithuania and other Member States of the EU (hereinafter, the "Third Persons");

2.4.2 obtaining of data and other information from the Company, its executives, officers, employees, shareholders, agents, consultants or Third Persons, and processing of such data and information;

2.4.3 provision of advice to the Company, its executives, officers, employees, shareholders or Third Persons to the extent necessary to enable or facilitate development and delivery of the Deliverables; and

2.4.4 conduct of any other activities enabling or facilitating development and delivery of the Deliverables.

2.5 The Agreement contains the following Annexes:

2.5.1 Annex A, Request for Proposal, including the Technical Specification; and

2.5.2 Annex B, Proposal.

2.6 The Annexes listed pursuant to Section 2.5 of this Agreement shall form an integral part of the Agreement and are incorporated herein by reference as if set out at length in the Agreement.

2.7 In the event of any inconsistency between the terms of this Agreement and any of the Annexes, the text of the Annexes shall take precedence over any term set forth in the Agreement. In the event of any inconsistency between the terms of any of the Annexes, the order of precedence of the text of such Annexes (including with respect to any calculations contained therein) shall be established according to the sequence of listing in Section 2.5 of the Agreement.

3. SERVICE DELIVERY SCHEDULE

3.1 During the Term of this Agreement, the Contractor undertakes to perform the following acts and deliver the following materials (hereinafter, the “Deliverables”) according to the following schedule:

	Action/material deliverable	Number of days/months	Minimum requirements to contents of the action or material deliverable
3.1.1	Inception Report	2 weeks from the Effective Date	Detailed project execution plan Detailed methodology including proposal on the best practice study countries Project risk and issue evaluation and management plan
3.1.2	First interim report	10 weeks from the Effective Date	Full list of technical parameters (design and operational) used for analysis Benchmarking study of engineering standards of the selected countries Technical feasibility analysis by each parameter Economic feasibility assessment by each parameter Proposal of the most feasible list of design and operational technical parameters to be standardized throughout the line Annex 1: National legislation study report Annex 2: Report on national studies screening Annex 3: Best practice study report Annex 4: Proposal for Railway organization and operation model. Annex 5: List of operational values for further elaboration of draft operation rules Annex 6: List of railway infrastructure elements and values for further elaboration of Design Guidelines
3.1.3	Second interim report	18 weeks from the Effective Date	Benchmarking study of standard values of the selected parameters; Bottom-up costing analysis (investment and operational costs) for different value options of the selected parameters; Proposal of the most feasible values of design and operational technical parameters to be standardized throughout the line; Safety risk assessment for the proposed standard values; Change management procedure. Annex 1: Rail Baltica Operation rules manual (draft) Annex2: Rail Baltica Design Guidelines manual
3.1.4	Second interim report (revised)	20 weeks from the Effective Date	Revised contents as per RB Rail AS comments
3.1.5	Final report	23 weeks from the Effective Date	Executive Summary Methodology Technical analysis Economic analysis Risk analysis Conclusions and recommendations

			Annex 1. Rail Baltica Operation rules manual (draft) Annex 2. Rail Baltica Design Guidelines manual
3.1.6	Final Completion Report	23 weeks from the Effective Date	Summary of execution of the Contract

3.2 Any of the Deliverables specified in Section 3.1 of this Agreement shall be deliverable to the Company no later than on the last business day of the respective week when completion of the respective material was scheduled to occur. All materials deliverable under this Agreement shall be in the English language and supplied to the Company in four (4) hard copies and electronically on an electronic data storage device (a CD).

3.3 Unless a different time period has been agreed between the Parties, the Company shall review the Final Completion Report supplied pursuant to Section 3.1.6 within 14 (fourteen) working days from the date of receipt thereof, and:

3.3.1 accept the Final Completion Report by signing an acceptance act; or

3.3.2 reject the Final Completion Report by means of issuing written recommendations and/or objections.

3.4 In the event the Final Completion Report is rejected, the Contractor shall have an obligation to submit to the Company a revised Final Completion Report no later than within 10 (ten) working days from the date of receipt of recommendations or objections from the Company; provided, however, that the Parties may mutually agree a longer period of time for submission of the revised Final Completion Report, to the extent such longer period is objectively justified. In the event the Contractor finds any of the recommendations or objections expressed by the Company to be unreasonable, the Contractor shall deliver an opinion in writing stating why the Contractor believes such recommendations or objections to be unreasonable.

3.5 Subject to any objections the Contractor may have in accordance with Section 3.4, the Contractor shall submit a revised Final Completion Report to the Company according to the provisions of Section 3.4 and the Company shall review such revised Final Completion Report in accordance with Section 3.3 of the Agreement.

3.6 The Deliverables set out in Section 3.1 submitted to the Company shall be deemed to have been accepted by the Company upon signature by the Company of the respective act of acceptance.

3.7 Without prejudice to any other rights available to the Company hereunder, the Company shall have a right to request and, upon receipt of such request, the Contractor shall have an obligation to explain in writing or supplement any of the information or data contained in the Deliverables no later than within 10 (ten) calendar days from the date of receipt of the Company's request therefor, unless a different time for supply of specific explanations or supplements is agreed between the Parties. The Contractor agrees and acknowledges that it shall supply additional explanations and supplements in accordance with this Section 3.7 without any additional fees or charges whatsoever being applicable; provided, however, that the requests for additional explanations or supplements are within the scope of the Request for Proposal, including Technical Specification contained in Annex A to this Agreement.

3.8 The Company shall have a right, at any time during the Term, to convene one or more meetings for the assessment of the Deliverables delivered to it and/or in order to discuss other matters relevant to any activities contemplated under this Agreement. The place and time of such meetings shall be within the sole discretion of the Company. The Contractor undertakes to act in good faith and reasonably cooperate with the Company with respect to the holding of and participating in any such meetings.

3.9 Whenever required under applicable regulations or upon receipt of request from the Company, the Contractor shall ensure that the presentation materials and other documentation deliverable under this Agreement features logos or other requisites pertinent to the Project, including, without limitation, reference to the fact that the Project is financed under the auspices of CEF.

3.10 The Deliverables, presentation materials and other documentation developed by the Contractor shall use the corporate visual identity approved by the Company.

3.11 Each Party shall have an obligation to promptly notify the other Party in writing of any event or circumstance capable of impeding the proper or timely performance of its respective obligations under this Agreement.

4. FEE AND PAYMENT

4.1 As compensation for the preparation of the Service, the Company shall pay the Contractor EUR **[amount] euro and [amount] cents** (hereinafter, the "Fee") comprising the following:

4.1.1 a service fee in the amount of EUR **[amount] euro and [amount] cents**); and

4.1.2 value added tax at the rate of 21% amounting to EUR **[amount] euro and [amount] cents**).

4.2 The Fee is the all-inclusive consideration for the duly supplied Service. The Fee includes reimbursement of all and any expenditure incurred by the Contractor toward performance of any steps, actions or measures contemplated in accordance with this Agreement (including, without limitation, travel costs and the cost of training of personnel of the Company). The Contractor agrees and acknowledges that it shall have no right to request reimbursement by the Company of any additional expenditure whatsoever as may be incurred by the Contractor toward provision of the Services contemplated in this Agreement, unless reimbursement of such additional expenditure has been explicitly agreed between the Parties in writing.

4.3 The Contractor understands and acknowledges that delivery of complete and final Deliverables, rather than partially accomplished Deliverables, is of importance to the Company. Accordingly, the Contractor shall be entitled to receive the entire Fee as of the final supply and acceptance of the Design Guidelines and Operating Rules only.

4.4 The Fee shall be payable to the Contractor according to the following schedule:

4.4.1 20% of the Fee, within fourteen (14) working days after delivery to the Company of the Inception Report pursuant to Section 3.1.1 of this Agreement;

4.4.2 30% of the Fee, within fourteen (14) working days after delivery to the Company of the Second interim report (revised) pursuant to Section 3.1.4 of this Agreement;

4.4.3 the remainder of the Fee within 10 (ten) working days after acceptance by the Company of the Final Completion Report.

4.5 All payments hereunder shall be effected against Contractor invoice(s) by means of funds' transfer to the bank account designated in the invoice. For the avoidance of any doubts, the date of transfer of funds from the Company's account shall be deemed the date of payment.

5. CONTACT PERSONS; PERSONNEL; USE OF SUB-CONTRACTORS

5.1 Contact person for the Company: **[position], [name], [surname]**, phone number: **[phone number]**, e-mail address: **[e-mail address]**.

5.2 Contact person for the Contractor: **position], [name], [surname]**, phone number: **[phone number]**, e-mail address: **[e-mail address]**.

5.3 The contact persons of the Parties shall be responsible for monitoring the progress of the performance of the obligations of each Party under this Agreement and maintaining communication between the Parties. Whenever the contact person of a Party is temporarily unavailable, the duties of such contact person shall be performed by another employee of such Party, possessing the appropriate qualifications and skills.

- 5.4 The contact person of each Party shall be responsible for duly notifying the contact person of the other Party of any changes occurring in the information specified at Sections 5.1 and 5.2 of this Agreement.
- 5.5 In the supply of Services under this Agreement, the Contractor shall be entitled to assign the appropriately trained and qualified key personnel of the Contractor. To the extent necessary to ensure development of high-quality Deliverables, the Contractor shall have a right to replace the assigned personnel or add other personnel. For the avoidance of any doubt, it is agreed and acknowledged by the Parties that all costs and expenditure incurred by the Contractor toward engagement of personnel necessary for the supply of the services under this Agreement have been included into and are forming part of the Fee.
- 5.6 The Contractor shall be allowed to enter into contract(s) with sub-contractor(s) of the Contractor's choice for the purpose of performing its obligations under this Agreement; provided, however, that each of the following conditions has been satisfied:
- 5.6.1 the Contractor shall take all reasonable steps to satisfy itself that the sub-contractors (or their employees) are suitable, duly qualified and skilled in all respects to perform the services required under this Agreement;
- 5.6.2 the Contractor shall at all times remain responsible to the Company for the proper performance under this Agreement and for all of the acts and omissions of its sub-contractors in connection with this Agreement; and
- 5.6.3 prior written consent of the Company has been obtained to proceed with replacement of experts which were notified to the Company in the Proposal, sub-contractor(s) delivering 20% or more of the Services under this Agreement, or if the Contractor was relying on the qualifications and skills of the sub-contractor(s) it seeks to replace when making the Proposal within the framework of the tender.
- 5.7 The Contractor shall verify and shall not procure goods or services from sub-contractors which comply with any of the following criteria:
- 5.7.1 The subcontractor or a person, who is a member of the Management Board or the Supervisory Board or procurator of the sub-contractor, or a person having the right to represent the sub-contractor in activities related to a subsidiary, has been found guilty in any of the following criminal offences by a such punishment prescription of prosecutor or a judgement of a court that has entered into effect and is non-disputable and not subject to appeal:
- 5.7.1.1 bribetaking, bribery, bribe misappropriation, intermediation in bribery, taking of prohibited benefit or commercial bribing;
- 5.7.1.2 fraud, misappropriation or laundering;
- 5.7.1.3 evading payment of taxes and payments equivalent thereto,
- 5.7.1.4 terrorism, financing of terrorism, invitation to terrorism, terrorism threats or recruiting and training of a person for performance of terror acts;
- 5.7.2 A subcontractor, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of an infringement of employment rights which means:
- 5.7.2.1 employment of such one or more citizens or nationals of countries, which are not citizens or nationals of the European Union Member States, if they reside in the territory of the European Union Member States illegally;
- 5.7.2.2 employment of one person without entering into a written employment contract, not submitting an informative declaration regarding employees in respect of such person within a time period laid down in the laws and regulations, which is to be submitted regarding persons who commence work;
- 5.7.3 A subcontractor, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of infringement of competition rights manifested as a vertical agreement aimed at restricting the opportunity of a purchaser to determine the resale price, or horizontal cartel agreement, except for the case when the relevant authority, upon determining infringement of competition rights, has released the candidate or tenderer from a fine or reduced fine within the framework of the co-operation leniency programme;

- 5.7.4 Insolvency proceedings of the subcontractor have been announced (except the case where a bailout or similar set of measures is applied within insolvency proceedings oriented towards prevention of possible bankruptcy and restoration of solvency of the debtor, in which case the Contractor evaluates the possibility of such subcontractor to participate in the execution of the Contract), economic activity of the subcontractor has been suspended or discontinued, proceedings regarding bankruptcy of the subcontractor have been initiated or the subcontractor will be liquidated;
- 5.7.5 The subcontractor has tax debts in the country where the Procurement is organised or a country where the subcontractor is registered or permanently residing, including debts of State social insurance contributions, in total exceeding EUR 150 in each country. In this case the Contractor may invite the subcontractor to pay all tax debts within 10 business days and allow such subcontractor to continue participation in the execution of this Contract;
- 5.7.6 Any of the above mentioned criteria applies to all members of a group of persons if the subcontractor is a group of persons.

6. LIABILITY

6.1 In the event of delay with performance of any of its obligations set forth in this Agreement, the Contractor shall pay the Company a contractual penalty in the amount of 0.1% (zero point one per cent) of the Fee for each day of delay; provided, however, that the total amount of the contractual penalty shall not exceed 10% (ten per cent) of the Fee.

6.2 In the event of delay with performance of any of its payment obligations set forth in this Agreement, the Company shall pay the Contractor a contractual penalty in the amount of 0.1% (zero point one per cent) of the amount which remains due and unpaid for each day of delay; provided, however, that the total amount of the contractual penalty shall not exceed 10% (ten per cent) of the Fee.

6.3 Since delivery of complete and final Deliverables, rather than partially accomplished Deliverables, is of the essence to the Company, in the event of termination of this Agreement by the Company in accordance with Section 8.3 prior to delivery of the Final Completion Report, the Contractor shall be liable to refund to the Company any portion of the Fee received by the Contractor in accordance with Sections 4.4.1 and 4.4.2 of this Agreement. Such refund by the Contractor shall be without prejudice to any other right available to the Company under this Agreement including, without limitation, the right to receive contractual penalty in accordance with Section 6.1 hereof.

6.4 The payment of any contractual penalty hereunder shall not relieve either Party from the responsibility to perform any of the obligations of such Party set forth in the Agreement.

6.5 Without prejudice to any other rights a Party may have under this Agreement, including, without limitation, the right to receive contractual penalty, each Party shall be entitled to enforce its rights under this Agreement to recover damages and costs (including reasonable attorney's fees) caused by any breach of any provision of this Agreement and to exercise all other rights existing in its favour, regardless of termination of this Agreement for any reason whatsoever. The Parties hereto agree and acknowledge that money damages would not be an adequate remedy for any breach of this Agreement and that any Party may, in its sole discretion, apply to any court of competent jurisdiction for specific performance and/or other injunctive relief in order to enforce, or prevent any violation of this Agreement.

7. CONFIDENTIALITY

7.1 The Contractor agrees that any information or copies of any documents obtained from the Company prior to or during the Term of this Agreement including, without limitation, information and data, whether in oral, visual or written form, recorded or embodied in whatever medium, descriptions of strategic and business plans, the identity of one or more other parties with whom the Company does business, descriptions of non-public deal structure proposals, descriptions of business operations or plans, descriptions, samples or demonstrations of

products and services, concepts, designs, technical descriptions, drawings and diagrams, financial performance, sales and revenue figures, financial estimates and projections, descriptions of computer and IT systems and systems development, strategies, billing and receivable procedures, software, technical systems and product development methodologies, marketing and operational procedures and strategies, customer and supplier lists and information on litigations of the Company shall be considered "Confidential Information".

7.2 The Company agrees that any information on ideas, methodologies or approaches of the Contractor shall be considered "Confidential Information".

7.3 The receiving Party will hold all of the Confidential Information in strict confidence and, except as expressly set forth herein, will not disclose the Confidential Information to any third party. The term "third party", as used in this Agreement, shall be broadly interpreted to include, without limitation, any company, group, partnership, joint venture, organization, association, agency, authority or individual. The obligations of the Party receiving Confidential Information set forth in this Section 7 of the Agreement will not apply to the extent that the Confidential Information:

7.3.1 at the time of its disclosure, is in the public domain or becomes, after disclosure, part of the public domain by publication or otherwise through no action or fault of the Party receiving Confidential Information;

7.3.2 was in the possession of the receiving Party and the receiving Party is able to present evidence that the Confidential Information was in its possession at the time of disclosure and was not acquired, directly or indirectly, from the disclosing Party;

7.3.3 was received by the Party from a third party having a legal right to transmit the information;

7.3.4 was rightfully disclosed in response to an order of a court of competent jurisdiction;

7.3.5 was rightfully disclosed in response to an order, ordinance, decision, request or inquiry of a competent national or supra-national governmental, regulatory or supervisory agency, authority or body, to the extent the receiving Party is required by law to disclose Confidential Information to such agency, authority or supervisory body; or

7.3.6 was disclosed pursuant to a written consent of the other Party.

7.4 The Contractor may disclose Confidential Information of the Company to its respective executives, officers and employees only to the extent such executives, officers or employees need to know Confidential Information for the development of the Design Guidelines, Operating Rules or other materials deliverable in accordance with Section 3.1 of this Agreement, and then only if:

7.4.1 such disclosure is subject to the same limitations on the recipient as on the Contractor (including, without limitation, with respect to termination of confidentiality obligations as set forth pursuant to Section 7.9 of this Agreement); and

7.4.2 such limitations are set forth in a written agreement between the Contractor and its executive, officer or employee who needs to have access to the Confidential Information on need-to-know basis.

7.5 The Contractor shall return to the Company all Confidential Information in its possession or control, including any copies, reproductions, or derivative works thereof, upon the earlier of:

7.5.1 expiration of the Term;

7.5.2 termination of this Agreement; or

7.5.3 a written request by the Company,

7.6 No publication with respect to any activity undertaken pursuant to this Agreement or the Project shall be made, nor any information submitted for publication, without the prior review and written approval of the Company.

7.7 The Parties hereto agree that remedies at law may be inadequate to protect against the breach of obligations set forth in this Section 7, and in the case of such a breach the breaching Party hereby consents to the granting of injunctive relief, whether temporary, preliminary or final, in favour of the non-breaching Party without proof of actual damages. In addition to and without prejudice to the right to seek injunctive relief, the Party which itself or through its engaged persons commits a breach of the confidentiality undertakings in this Section 7, shall compensate losses incurred by the other Party as a result of the breach.

7.8 Each Party's Confidential Information shall remain the property of that Party. Nothing contained in this Section 7 shall be construed as obligating a Party to disclose its Confidential Information to the other Party, or as granting to or conferring on a Party, expressly or impliedly, any rights or license to the Confidential Information of the other Party, and any such obligation or grant shall only be as provided by other provisions of this Agreement.

7.9 The obligations set forth in Section 7 of this Agreement shall continue during the Term and 1 (one) year thereafter and shall apply notwithstanding expiration of the Term or termination of this Agreement for any reason whatsoever.

8. AUDITS AND ON-THE-SPOT VISITS

8.1 By giving a written notice 5 (five) business days in advance, but in case of an unannounced check or audit or on-the-spot-visit without an advance notice, the Company may carry out technical, legal and financial checks and audits of the Contractor and the sub-contractors of the Contractor, and on-the-spot visits to the sites and premises where the activities related to the implementation of this Contract are or were carried out. Checks and audits and on-the-spot visits may be carried out either directly by the authorized staff of the Company or by any other outside body authorised to do so on its behalf.

8.2 The Contractor is obliged to provide to the Company's staff which is performing a check or audit or on-the-spot visit or any other outside body authorised by the Company access to all the information and documents, including information in electronic format, which is requested by the performer of the check or audit or on-the-spot-visit or any other outside body authorised by it for the performance of the check or audit or on-the-spot visit and which relates to the execution of this Contract, as well as shall allow the performer of the check or audit or on-the-spot visit or any other outside body authorised by it copying of the information and documents with due respect to the confidentiality obligation.

8.3 The Contractor is obliged to agree in the contracts with its sub-contractors on the right of the Client to access and to copy their information and documents which relate to the execution of this Contract.

9. TERM AND TERMINATION

9.1 The Agreement shall commence on the Effective Date and shall continue until the earliest of:

8.1.1 for no more than 24 weeks (hereinafter, the "Term") and complete performance by each Party of its respective obligations herein set forth; or

8.1.2 the date of termination of this Agreement in accordance with this Section 8.

9.2 The Parties may terminate this Agreement by mutual agreement.

9.3 This Agreement may be terminated by the Company by giving 15 (fifteen) calendar days' prior written notice of termination to the Contractor in any of the following events:

9.3.1 the Contractor is in delay with performance of any of its obligations set forth in this Agreement (including, without limitation, delay with meeting any of the deadlines set forth in Section 3.1 of this Agreement) by more than 15 (fifteen) calendar days;

9.3.2 the Contractor commits a breach of any of its obligations set forth in this Agreement and fails to cure such breach within 15 (fifteen) calendar days from the date of receipt of a written notice from the Company requesting that the breach be cured;

9.3.3 upon the institution of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of debts of the Contractor;

9.3.4 upon the making of an assignment for the benefit of creditors by the Contractor; or

9.3.5 upon the dissolution of the Contractor.

10. GOVERNING LAW; DISPUTE RESOLUTION

10.1 The rights of the Parties hereto and the validity, interpretation and implementation of this Agreement shall be governed by and construed and interpreted in accordance with the laws of the Republic of Latvia. In the event of any dispute, controversy, or claim arising out of or relating to this Agreement, or the breach, termination or invalidity hereof or thereof, the disputing Party shall provide written notice thereof to the other Party. The Parties shall attempt in the first instance to resolve such dispute through amicable consultations.

10.2 When any dispute occurs and is the subject of amicable consultations, the Parties shall continue to exercise their remaining respective rights, and fulfil their remaining respective obligations, under this Agreement.

10.3 If the dispute is not resolved by amicable consultation within thirty (30) days after notice of a dispute is given by a Party, then any Party may submit the dispute for final resolution by a competent court of the Republic of Latvia.

11. MISCELLANEOUS PROVISIONS

11.1 The Contractor acknowledges that, as between the Parties, the Company owns all right, title, and interest in and to all components of the Deliverables and all related documentation, including all improvements and derivatives thereof and modifications thereto. The Contractor may not assign, transfer, sell, license, sublicense or grant any right in or to the Deliverables and any related documentation to any other person or entity.

11.2 The copyright and other intellectual property rights in and to the Deliverables and other materials deliverable to the Company in accordance with Section 3.1 of this Agreement shall be exclusively owned by the Company (hereinafter – the “Intellectual Property Rights”). Upon request, the Contractor will cooperate with the Company in connection with administration and enforcement of any such rights. The Contractor will execute, promptly upon request by the Company, all further reasonable and necessary documents to effectuate the provisions of this Section 10.2. For the avoidance of any doubt, the Contractor shall be deemed to have granted the Company the right to use the Deliverables and any other materials deliverable to the Company under this Agreement (including all data contained in such Deliverables and materials) for whatever purpose.

11.3 This Agreement does not transfer or convey to the Contractor or any third party any right, title or interest in or to any of the Company's property.

11.4 In order for the Parties to exercise effectively their rights hereunder, and to the extent the same would not violate the Company's or Contractor's confidentiality obligations to third parties, the Parties shall provide to each other, upon request, any information or data relevant to the Deliverables, provided that nothing in such disclosed information shall constitute or be deemed to be a representation, warranty or covenant by either Party with respect to such matters. Such information may be furnished orally.

11.5 No Party shall be liable to the other Party because of any failure to perform hereunder caused by any cause beyond said Party's control, including without limitation fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labour controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God or law, except as expressly provided herein to the contrary.

11.6 No waiver by either Party hereto of any breach of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof. The exercise of any right granted to either Party hereunder shall not operate as a waiver.

11.7 This Agreement will inure to the benefit of and shall be binding upon the Parties hereto and their respective successors or assigns, whether resulting from any reorganization, consolidation or merger of either of the Parties or any assignment to a business to which all or substantially all of the assets of either Party are sold.

11.8 This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof, supersedes all prior agreements and understandings with respect thereto and cannot be modified, amended, waived or terminated, in whole or in part, except in writing signed by both Parties.

11.9 In the event any provision of this Agreement is found to be invalid, voidable or unenforceable, the Parties agree that unless it materially affects the entire intent and purpose of this Agreement, such invalidity, voidability or unenforceability shall affect neither the validity of this Agreement nor the remaining provisions herein, and the provision in question shall be deemed to be replaced with a valid and enforceable provision most closely reflecting the intent and purpose of the original provision.

11.10 Any notices to the Contractor by the Company under any provision of this Agreement shall be sufficiently given if in writing and served personally upon or delivered to the e-mail of the contact person of the Contractor identified in Section 5.2 of this Agreement with electronic confirmation to such contact person, or at such other address as may be designated for that purpose in a notice delivered to the Contractor to the Company. Any notice to the Company by the Contractor under any provision of this Agreement shall be sufficiently given if served personally upon or delivered to the e-mail of contact person of the Company identified in Section 5.1 of this Agreement with electronic confirmation to the Company, or at such other address as may be designated for that purpose in a notice delivered to the Company by the Contractor.

11.11 The relationship between the Company and Contractor is that of independent contractors and nothing in this Agreement shall, and no action taken by the Parties pursuant to this Agreement shall, constitute or be deemed to constitute a partnership, association or joint venture between the Company and Contractor and neither Party is authorised to act as agent for the other.

11.12 This Agreement may not (except as provided in Section 10.7 hereof) be assigned by either Party hereto without the prior written consent of the other Party (any purported assignment hereof in violation of this provision being null and void).

11.13 The Contractor warrants and represents that it is duly qualified and has all requisite skills to perform its duties hereunder. The Contractor covenants, further, that in performing its duties hereunder it will not engage in activity that is in violation of applicable laws of Latvia or would subject the Company to any liability whatsoever.

11.14 The Agreement has been executed in two identical original counterparts, of which the Parties shall have received one original counterpart each.

12. PARTY REQUISITES AND SIGNATURE BY AUTHORIZED REPRESENTATIVES OF THE PARTIES

Company:	Contractor:
RB Rail AS	
Registration No. 40103845025	Registration No.
Address: 3, Gogoļa Street, Riga, LV-1050	Address:
Account details:	Account details:
Bank: AS „Nordea Bank AB”	Bank:
SWIFT code:	SWIFT code:
Account No.: LV73NDEA0000084270995	Account No.:
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For and on behalf of the Company:

For and on behalf of the Contractor:

Name:

Name:

Title:

Date signed:

Signature:

Title:

Date signed:

Signature:

To be added after results of the open competition:

Annex A: Technical Specification

Annex B: Proposal