

COMMON PROCUREMENT STANDARDS AND GUIDELINES FOR RAIL BALTICA PROJECT

1. BACKGROUND

- 1.1. Rail Baltica is a new fast conventional double track electrified railway line with the maximum design speed of 240 km/h and European standard gauge (1435mm) on the route from Tallinn through Pärnu-Riga-Panevezys-Kaunas to Lithuanian-Polish border, with the connection of Vilnius-Kaunas, thus, located in the territories of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania (hereinafter - **Rail Baltica**).
- 1.2. Rail Baltica project is implemented by multiple public institutions and derived private persons in the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania which poses financial, legal and practical challenges given the fact that the Rail Baltica railway infrastructure must be fully interoperable.
- 1.3. Implementation of the Rail Baltica project is financed by the European Union through the Connecting Europe Facility and the co-founding of the three Baltic states – the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania, and if necessary from other sources of financing. RB Rail AS, the Ministry of Economic Affairs and Communications of the Republic of Estonia, the Ministry of Transport of the Republic of Latvia and the Ministry of Transport and Communications of the Republic of Lithuania (hereinafter – **Beneficiaries**) are beneficiaries of the Rail Baltica project pursuant to the Connecting Europe Facility grant agreements.
- 1.4. The Beneficiaries of Rail Baltica project have designated the Estonian Technical Regulatory Authority, Rail Baltic Estonia OU, Rail Baltica statyba UAB, Lietuvos geležinkeliai AB and Eiropas dzelzceļa līnijas SIA as the national implementing bodies of the Rail Baltica project (hereinafter – **Implementing bodies**).
- 1.5. RB Rail AS is a joint-stock company established and operating under the laws of the Republic of Latvia. The main business of RB Rail AS is designing, construction and marketing (including branding) of the Rail Baltica railway line. Additionally, RB Rail AS is the coordinating authority of the Rail Baltica project. For the purposes of this document a reference to ‘Beneficiaries’ includes a reference to RB Rail AS.

2. SCOPE OF APPLICATION

- 2.1. This document outlines the standards and guidelines which are applicable to procurements within the Rail Baltica project. This document should be published and be freely available to economic operators in order to inform them about these standards and guidelines.
- 2.2. These standards and guidelines apply to all procurements within the Rail Baltica project irrespective of the estimated contract value or its subject matter. This document by itself does not create rights to claim its observance to third parties, e.g. economic operators. The actual requirements for a particular procurement are laid down in the procurement documents of the relevant procurement.

- 2.3. In case of discrepancies between the mandatory provisions of national legislation and this document the mandatory provisions of national legislation which apply to the particular procurement shall prevail.

3. STRUCTURING THE PROCUREMENT ACTIVITIES

- 3.1. Procurements within the Rail Baltica project are conducted either by RB Rail AS or other Beneficiaries and Implementing Bodies.

- 3.2. RB Rail AS procures:

- (a) Business development, marketing, branding and communication activities;
- (b) Design elements such as but not limited to design guidelines, consolidated preliminary technical design, master design and detailed technical design;
- (c) Studies such as but not limited to supplier market and resources study (raw materials and key components), technical studies (related to the European rail traffic management system (ERTMS), construction logistics, maintenance facilities and rolling stock depots, power supply, capacity constraint & buffer capacity development), Rail Baltica project development studies (e.g. commercialization, infrastructure management);
- (d) Control-command and signalling subsystems (CCS) (including the European Railway Traffic Management System (ERTMS));
- (e) Energy subsystem (ENE) (including catenary, substations, management centre);
- (f) Supplies of main raw materials and key components, with potential availability in the local markets (e.g. constructive layer for track and track bed, fixtures and other materials for engineering structures, rails, crossings, sleepers, ballast for superstructure, passenger information systems), if potential for economies of scale will be demonstrated in the supplier market and resources study;
- (g) Works for the construction of cross-border track and track bed sections.

- 3.3. Other Beneficiaries or Implementing Bodies procure:

- (a) Track and track bed (including relevant non-major engineering structures, superstructure, communication crossings);
- (b) Major engineering structures (tunnels, bridges);
- (c) Without prejudice to the above mentioned RB Rail AS competency, local facilities, including the required technical designs, including the detailed technical design thereof (Passenger Terminals, Freight Terminals, Infrastructure maintenance facilities, Rolling stock service facilities);
- (d) Without prejudice to the above mentioned RB Rail AS competency, urban node section of the railway infrastructure;
- (e) Works and services needed for the implementation of the Rail Baltica project only to Beneficiaries or Implementing Bodies in 1 (one) State where the Rail Baltica project is being implemented, with several exceptions.

4. PRINCIPLES OF THE PROCUREMENT ACTIVITIES

4.1. Beneficiaries and Implementing Bodies shall abide by the following principles:

4.1.1. Legality:

- (a) Beneficiaries and Implementing Bodies shall abide by the national public procurement rules in all cases when they act in their capacity as contracting authorities within the meaning of Directive 2014/24/EU Of The European Parliament And Of The Council Of 26 February 2014 On Public Procurement And Repealing Directive 2004/18/EC or contracting entities within the meaning of Directive 2014/25/EU Of The European Parliament And Of The Council Of 26 February 2014 On Procurement By Entities Operating In The Water, Energy, Transport And Postal Services Sectors And Repealing Directive 2004/17/EC.
- (b) Additionally, in the Inter-Beneficiary Agreement Between RB Rail AS, Ministry Of Economic Affairs And Communications Of The Republic Of Estonia, Ministry Of Transport Of The Republic Of Latvia And Ministry Of Transport And Communications Of The Republic Of Lithuania, dated 16 June 2016, the Beneficiaries have agreed that in those rare cases when national public procurement rules will not oblige Beneficiaries to procure goods, services or works in accordance with a regulated procedure, as well as those Implementing Bodies which are not contracting authorities, and if the anticipated value of the procurement is equal to or exceeds EUR 40,000, excluding VAT, they shall procure supplies, services or works in accordance with an agreed procedure. The agreed procedure, with minor adjustments which are required due to the particularities of the respective national laws, is based on the following principles (and appropriate applicable legal regulation):
 - (i) For performing the procurement the relevant Beneficiary or Implementing Body establishes a procurement commission consisting of at least three members, ensuring that this commission is competent in the field of the procurement regarding which a contract is being entered into. The procurement commission, in fulfilling the duties thereof, is entitled to invite experts.
 - (ii) Beneficiary or Implementing Body must not be in a conflict of interest situation. Members of the procurement commission, experts and persons who draft the procurement documentation must not be in a conflict of interest situation. The concept of conflict of interest is explained below in these Common Procurement Standards and Guidelines.
 - (iii) The procurement commission determines justified and objective requirements in relation to the candidates, tenderers and the subject-matter of the procurement, ensuring that the requirements do not cause unjustified restrictions for competition in the procurement. The procurement commission also determines the criteria to be taken into account in order to select the economically most advantageous tender.

- (iv) The relevant Beneficiary or Implementing Body publishes a notice regarding the planned contract on its website (and in appropriate informational system if required by applicable laws), specifying reasonable deadline for the submission of tenders which is not less than 10 (ten) business days from the day when the notice was published (the specified deadline must be not less than required by the applicable laws as well). The relevant Beneficiary or Implementing Body publishes the determined requirements together with publishing notice regarding the planned contract, and ensures free and direct access thereto.
- (v) Unless prohibited or limited by the mandatory provisions of the national law, the relevant Beneficiary or Implementing Body excludes the candidate or the tenderer from participation in the procurement in any of the following cases:
- A candidate, a tenderer, director or a person, who is a member of the Management Board or the Supervisory Board or procurator of a candidate or tenderer, or a person having the right to represent the candidate or tenderer 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:
 - bribetaking, bribery, bribe misappropriation, intermediation in bribery, taking of prohibited benefit or commercial bribing;
 - fraud, misappropriation or laundering;
 - evading payment of taxes and payments equivalent thereto,
 - terrorism, financing of terrorism, invitation to terrorism, terrorism threats or recruiting and training of a person for performance of terror acts;
 - A candidate or a tenderer, 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:
 - 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;
 - 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;

- A candidate or tenderer, 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 cases when in regulated procurement procedures the national law does not foresee exclusion in a situation where the relevant authority has applied the co-operation leniency programme;
 - Insolvency proceedings of the candidate, tenderer or 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 relevant Party evaluates the possibility of such candidate or tenderer to participate in the tender), economic activity of the candidate, tenderer or subcontractor has been suspended or discontinued, proceedings regarding bankruptcy of the candidate, tenderer or subcontractor have been initiated or the candidate, tenderer or subcontractor will be liquidated;
 - The candidate, tenderer or subcontractor has tax debts in the country where the procurement is organised or a country where the candidate, tenderer or subcontractor is registered or permanently residing, including debts of State social insurance contributions, in total exceeding an amount which is common threshold in public procurements in the respective country. In this case the relevant Party may invite the candidate, tenderer or subcontractor to pay all tax debts within 10 business days and allow such candidate or tenderer to continue participation in the procurement;
- (vi) Any of the above mentioned criteria applies to all members of a group of persons if the candidate or tenderer is a group of persons.
- (vii) After expiry of the deadline for the submission of tenders the procurement commission evaluates the submitted tenders and selects one or several tenders on the basis of the published requirements. The procurement commission recognises that tenderer as the winner in the procurement which was selected in conformity with the published requirements and criteria and was not excluded from the participation in the procurement. In addition, the decision of the procurement commission about

determining the winner in the tender includes information about all rejected candidates and tenderers and the reasons for rejection thereof, the contract prices tendered by all tenderers and the comparative advantages of the tenderer determined as the winner.

- (viii) The procurement contract may be amended taking into account the rules set in Article 72 of Directive 2014/24/EU and Article 89 of Directive 2014/25/EU.

4.1.2. Best value for money:

- (a) The main contract award criterion should be the most economically advantageous tender comprising price or cost together with a mix of qualitative, environmental and/or social criteria, linked to the subject-matter of the procurement.
- (b) Price only will be used as a contract award criterion only as an exception in those cases when the technical specifications are clear and other award criteria are of no significance.

4.1.3. Socially and environmentally sustainable procurement:

- (a) Whenever the subject-matter of the procurement allows so and where it would be beneficial to do so, insofar it is not prohibited by national legislation, Beneficiaries and Implementing Bodies should invoke social and environmental aspects into discretionary exclusion grounds, award criteria and contract performance conditions in order to facilitate socially and environmentally sustainable procurement.

4.1.4. Free competition:

- (a) Beneficiaries and Implementing Bodies must ensure fair, equal and transparent competition of economic operators without discrimination due to the nationality or country of origin of the economic operators. Beneficiaries and Implementing Bodies must ensure equal participation of economic operators from the Member States of the European Union and Member States to the Agreement on Government Procurement or other international agreements which are binding to the European Union and require it to ensure access to the procurements on par with suppliers from its Member States.
- (b) Nevertheless, when local knowledge and experience is material to the subject-matter of the procurement, Beneficiaries and Implementing Bodies may use criteria for qualitative selection of tenderers and award criteria which provide advantage to tenderers with specific local knowledge and experience.
- (c) Whenever feasible, Beneficiaries and Implementing Bodies must conduct market research in order to determine whether the intended procurement requirements do not unduly restrict the competition.

4.1.5. Transparency:

- (a) Beneficiaries and Implementing Bodies shall strive to ensure that information about every procurement within the Rail Baltica project is publicised in all States where the Rail Baltica project is being implemented, as the minimum by publishing relevant information on the web-pages of the Beneficiaries and Implementing Bodies.
- (b) Beneficiaries and Implementing Bodies shall strive to ensure that the procurement documentation is available as the minimum the language of the State where the procurement procedure is being conducted and the language of the State where the supply, services or works are being performed and in the English language.
- (c) Beneficiaries and Implementing Bodies shall publish and make freely available to economic operators their annual procurement plans, as well as shall update plans as needed. However, such annual procurement plans shall not preclude Beneficiaries and Implementing Bodies from announcing procurements which are not included in the annual procurement plan if a need for such procurement arose unexpectedly and Beneficiary or Implementing Body did not have time to update the annual procurement plan.

4.1.6. Absence of conflicts of interest:

- (a) Beneficiaries and Implementing Bodies shall take all necessary measures to prevent any situation where the impartial and objective implementation of the agreements with the Innovation and Networks Executive Agency (INEA) may be compromised. Beneficiaries and Implementing Bodies have undertaken not to procure goods, works and services from suppliers with which they have a conflict of interests, and to avoid to the maximum extent possible taking decisions on awarding of contracts for procurement of goods, works or services by persons who are in a conflict of interest situation.
- (b) Beneficiaries and Implementing Bodies shall be in a conflict of interest situation with a supplier in any situation where a Beneficiary or an Implementing Body, their shareholder, member, member of the Management Board or Supervisory Board, or a person having the right to represent the candidate or tenderer in activities related to a subsidiary, a blood relative to the second degree or spouse or the first degree relative through marriage of any of the mentioned persons, or procurator or authorised person is:
 - (i) the supplier or the supplier's sub-contractor;
 - (ii) the beneficial owner, shareholder, member, member of the Management Board of the Supervisory Board, procurator or authorised person of the supplier or the supplier's sub-contractor;
- (c) The decision-shaping and decision-making persons shall be in a conflict of interest situation with a supplier in any situation where staff members of a Beneficiary or an Implementing Body, or of a procurement service provider acting on behalf of a Beneficiary or an Implementing Body who are

involved in the conduct of the procurement procedure or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of a procurement procedure.

- (d) Beneficiaries and Implementing Bodies shall not procure goods, works or services from suppliers with which they are in a conflict of interest situation, unless:
- (i) The particular supplier provides the respective services on the basis of exclusive rights which derive from a law;
 - (ii) The contract is for procurement or lease of a land plot, existing building or structure or another immovable property or procurement of other rights in respect to such immovable property;
 - (iii) It is a public contract between entities within the public sector in the meaning of Article 12 of Directive 2014/24/EU Of The European Parliament And Of The Council Of 26 February 2014 On Public Procurement And Repealing Directive 2004/18/EC or a contract between contracting authorities in the meaning of Article 28, contract awarded to an affiliated undertaking in the meaning of Article 29 or a contract awarded to a joint venture or to a contracting entity forming part of a joint venture in the meaning of Article 30 of Directive 2014/25/EU Of The European Parliament And Of The Council Of 26 February 2014 On Procurement By Entities Operating In The Water, Energy, Transport And Postal Services Sectors And Repealing Directive 2004/17/EC.
- (e) The Parties shall ensure at least that members of the procurement commissions, experts and persons who draft procurement documentation are not:
- (i) The current or former beneficial owner, employee, member of the Management Board or Supervisory Board, shareholder, member, procurator or authorised representative of a legal person – candidate, tenderer or sub-contractor, and if this connection with the legal person has terminated within the last 24 months;
 - (ii) The father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-brother, half-sister or spouse (hereinafter – relative) of a beneficial owner, a shareholder who owns at least 10 per cent of shares, shareholder in a limited liability company, member of the Management Board or Supervisory Board, a person having the right to represent in activities related to a subsidiary, of a legal person – candidate, tenderer or sub-contractor; or
 - (iii) A relative of a natural person – candidate, tenderer or sub-contractor.

- (f) The connection with a candidate or tenderer also shall apply to cases when the candidate or tenderer is an association of persons, members of which are natural persons or legal persons, with which the member of the commission, the expert or person who drafts the procurement documentation has the connection referred to above.
- (g) Beneficiaries and Implementing Bodies must evaluate whether a supplier has gained undue competitive advantage and therefore should be excluded from participation in a procurement procedure due to prior involvement of the respective supplier in the preparation of the procurement procedure due to participation in preliminary market consultations with the respective Beneficiary or Implementing Body, or otherwise.
- (h) Beneficiaries and Implementing Bodies have a “zero tolerance” policy and do not accept any type of gift or any offer of hospitality. Beneficiaries and Implementing Bodies will not accept any invitations to sporting or cultural events, offers of holidays or other recreational trips, transportation, or invitations to lunches or dinners at the cost of suppliers.
- (i) Beneficiaries and Implementing Bodies shall ensure that each member and invited expert of the relevant procurement committee signs a declaration on absence of conflict of interests at two points in time: upon taking up the responsibilities with respect to the particular procurement and at the moment when all tenderers in the particular procurement become known.
- (j) Additionally, Beneficiaries and Implementing Bodies must ensure that each person involved in the procurement procedure has an obligation at all times to immediately declare a conflict of interests situation once he/she realises such situation and any proceedings started against such person on the grounds of corruption or exerting illegal influence.
- (k) As a general rule, Beneficiaries and Implementing Bodies must terminate the relevant procurement procedure if it becomes known that a conflict of interests situation occurred or proceedings on the grounds of corruption or exerting illegal influence were started related to the particular procurement procedure and doubts about the objectivity of the tender documentation or decisions by the procurement committee cannot be eliminated by other means.

4.1.7. Use of experts and preliminary market consultations:

- (a) Beneficiaries and Implementing Bodies should to the maximum extent possible involve in the preparation of procurement documents appropriate independent experts, in particular – technical experts.
- (b) Additionally, with the view of preparing the procurement and informing the economic operators, Beneficiaries and Implementing Bodies should as much as possible conduct preliminary market consultations with economic operators. In order to ensure that none of economic operators receives undue competitive advantage due to such preliminary market consultations, Beneficiaries and Implementing Bodies must produce a written summary of such preliminary market consultations and make it publicly freely accessible.

5. SUPPLIER CODE OF CONDUCT

- 5.1. A procurement procedure and the resulting contract shall not only comply with the statutory procurement regulations, but also with the applicable requirements in such areas as employment, health and safety, environmental protection, taxation, and anti-corruption regulations etc. Therefore, it is important to ensure that each and every potential supplier and tenderer taking part in implementation of Rail Baltica project shall conduct their business activities in a legal and compliant manner.
- 5.2. Beneficiaries and Implementing Bodies must within the limits that the statutory laws allow, use a mix of compulsory and discretionary exclusion grounds, contract award criteria and contract performance conditions to award procurement contracts to suppliers which honour requirements of applicable statutory laws and best market practice which is summarised below. Compulsory exclusion grounds derive from the applicable national legislation. Discretionary exclusion grounds and selection criteria shall be set in the relevant procurement documents in line with the applicable national legislation. A Suppliers' Declaration which shall be a part of a procurement contract is appended to this document.
- 5.3. If suspicious and/or potentially illegal activity (e.g. bribery or other attempts at corruption, bid-rigging, cartels, abnormally low tender prices or other illegal anti-competitive practices) by contractors or tenderers will be noticed, Beneficiaries and Implementing Bodies must without hesitation notify the necessary authorities and fully co-operate with them to resolve the situation and protect any possible Rail Baltica project investments.
- 5.4. 'Whistle-blowers' must be supported and protected who act in good faith, even if their suspicions should subsequently prove to be unfounded. Any person that wishes to notify Beneficiaries or Implementing Bodies of illegal activities or of suspicions of such activities that is in his/her knowledge should immediately contact representatives of the RB Rail AS or the relevant Beneficiary or Implementing Body. Beneficiaries and Implementing Bodies must preserve anonymity of such persons within the framework of applicable laws.
- 5.5. Through a mix of compulsory and discretionary exclusion grounds, contract award criteria and contract performance conditions Beneficiaries and Implementing Bodies must ensure that procurement contracts are awarded to and executed by tenderers which comply with the following best market practice:

5.5.1. *Labour:*

- (a) **Freedom of Association and Collective Bargaining:** Beneficiaries and Implementing Bodies expect their suppliers to respect the freely-exercised right of workers, without distinction, to organize, further and defend their interests and to bargain collectively, as well as to protect those workers from any action or other form of discrimination related to the exercise of their right to organize, to carry out trade union activities and to bargain collectively.¹

¹ These principles are set out in the ILO fundamental Conventions, No. 87, Freedom of Association and Protection of the Right to Organise, 1948 and No. 98, Right to Organise and Collective Bargaining, 1949.

- (b) **Forced or Compulsory Labour:** Beneficiaries and Implementing Bodies expect their suppliers not to use forced or compulsory labour in all its forms², including but not limited to not employ people against their own free will, nor to require people to lodge ‘deposits’ or identity papers upon commencing employment.
- (c) **Child Labour:** Beneficiaries and Implementing Bodies expect their suppliers not to employ: (a) children below 14 years of age or, if higher than that age, the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of a contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher; and (b) persons under the age of 18 for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons.³
- (d) **Discrimination:** Beneficiaries and Implementing Bodies expect their suppliers to ensure equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and such other ground as may be recognized under the national law of the country or countries where the performance, in whole or in part, of a contract takes place.⁴
- (e) **Wages, Working Hours and Other Conditions of Work:** Beneficiaries and Implementing Bodies expect their suppliers to ensure the payment of wages in legal fashion, at regular intervals no longer than one month, in full and directly to the workers concerned. Suppliers should keep an appropriate record of such payments. Deductions from wages are permitted only under conditions and to the extent prescribed by the applicable law, regulations or collective agreement, and suppliers should inform the workers concerned of such deductions at the time of each payment. The wages, hours of work and other conditions of work provided by suppliers should be not less favourable than the best conditions prevailing locally (i.e., as contained in: (i) collective agreements covering a substantial proportion of employers and workers; (ii) arbitration awards; or (iii) applicable laws or regulations), for work of the same character performed in the trade or industry concerned in the area where work is carried out.⁵
- (f) **Health and Safety:** Beneficiaries and Implementing Bodies expect their suppliers to ensure, so far as is reasonably practicable, that: (a) the workplaces, machinery, equipment and processes under their control are

² This principle is set out in the ILO fundamental conventions, No. 29, Forced Labour, 1930 and No. 105, Abolition of Forced Labour, 1957.

³ These principles are set out in the ILO fundamental Conventions, No. 138, Minimum Age, 1973 and No. 182, Worst Forms of Child Labour, 1999 and in the UN Convention on the Rights of the Child.

⁴ These principles are set out in the ILO fundamental Conventions, No. 100, Equal Remuneration, 1951 and No. 111, Discrimination (Employment and Occupation), 1958.

⁵ These principles are set out in ILO Conventions No. 95, Protection of Wages, 1949 and No. 94, Labour Clauses (Public Contracts), 1949 and in a number of Conventions addressing working time (see: <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/working-time/lang--en/index.htm>).

safe and without risk to health; (b) the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and (c) where necessary, adequate protective clothing and protective equipment are provided to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects to health.⁶

5.5.2. *Human Rights:*

- (a) **Human Rights:** Beneficiaries and Implementing Bodies expect their suppliers to support and respect the protection of internationally proclaimed human rights and to ensure that they are not complicit in human rights abuses.⁷
- (b) **Harassment, Harsh or Inhumane Treatment:** Beneficiaries and Implementing Bodies expect their suppliers to create and maintain an environment that treats all employees with dignity and respect and will not use any threats of violence, sexual exploitation or abuse, verbal or psychological harassment or abuse. No harsh or inhumane treatment coercion or corporal punishment of any kind is tolerated, nor is there to be the threat of any such treatment.

5.5.3. *Environment:*

- (a) **Environmental:** Beneficiaries and Implementing Bodies expect their suppliers to have an effective environmental policy and to comply with existing legislation and regulations regarding the protection of the environment. Suppliers should wherever possible support a precautionary approach to environmental matters, undertake initiatives to promote greater environmental responsibility and encourage the diffusion of environmentally friendly technologies implementing sound life-cycle practices.
- (b) **Chemical and Hazardous Materials:** Chemical and other materials posing a hazard if released to the environment are to be identified and managed to ensure their safe handling, movement, storage, recycling or reuse and disposal.
- (c) **Wastewater and Solid Waste:** Wastewater and solid waste generated from operations, industrial processes and sanitation facilities are to be monitored, controlled and treated as required prior to discharge or disposal.
- (d) **Air Emissions:** Air emissions of volatile organic chemicals, aerosols, corrosives, particulates, ozone depleting chemicals and combustion by-products generated from operations are to be characterized, monitored, controlled and treated as required prior to discharge or disposal.

⁶ These principles are set out in the ILO Conventions, Recommendations and Codes of Practice identified at: <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/occupational-safety-andhealth/lang--en/index.htm>]

⁷ These principles are derived from Universal Declaration of Human Rights (UDHR) and are set out in the United Nations Global Compact (see http://www.unglobalcompact.org/Issues/human_rights/index.html)

- (e) **Minimize Waste, Maximize Recycling:** Waste of all types, including water and energy, are to be reduced or eliminated at the source or by practices such as modifying production, maintenance and facility processes, materials substitution, conservation, recycling and re-using materials.

5.5.4. Ethical conduct:

- (a) **Corruption:** Beneficiaries and Implementing Bodies expect their suppliers to adhere to the highest standards of moral and ethical conduct, to respect local laws and not engage in any form of corrupt practices, including but not limited to extortion, fraud, or bribery.
- (b) **Conflict of Interest:** Suppliers are expected to disclose to Beneficiaries and Implementing Bodies (a) any situation that may appear as a conflict of interest, such as but not limited to: where a supplier or an undertaking related to the supplier has advised a Beneficiary or Implementing Body or has otherwise been involved in the preparation of the procurement procedure; and (b) if any Beneficiaries' or Implementing Bodies' official, professional under contract with Beneficiary or Implementing Body or sub-contractor may have a direct or indirect interest of any kind in the supplier's business or any kind of economic ties with the supplier.
- (c) **Gifts and Hospitality:** Beneficiaries and Implementing Bodies have a "zero tolerance" policy and do not accept any type of gift or any offer of hospitality. Beneficiaries and Implementing Bodies will not accept any invitations to sporting or cultural events, offers of holidays or other recreational trips, transportation, or invitations to lunches or dinners at the cost of suppliers. Beneficiaries and Implementing Bodies expect their suppliers not to offer any benefit such as free goods or services, employment or sales opportunity to a Beneficiary's and Implementing Body's staff member in order to facilitate the suppliers' business with Beneficiaries or Implementing Bodies.
- (d) **Post-employment restrictions:** National legislation may set post-employment restrictions to Beneficiaries' and Implementing Bodies' staff in service and former Beneficiaries' and Implementing Bodies' staff members who participated in the procurement process, if such persons had prior professional dealings with suppliers. Beneficiaries' and Implementing Bodies' suppliers are expected to refrain from offering employment to any such person for a period set in the respective national legislation following separation from service or award of a contract to the respective supplier as the case may be.

5.5.5. Selection of business partners and own suppliers

- (a) **Adoption and compliance with the principles:** Beneficiaries and Implementing Bodies expect that their suppliers will promote the adoption of the principles set forth in this document by their potential business partners and promote the implementation of the principles set forth in this document towards own suppliers.

- (b) **Eligibility of own suppliers:** Beneficiaries and Implementing Bodies expect that their suppliers shall not procure goods, works and services from other suppliers who comply with any of the circumstances mentioned in paragraph 4.1.1(b)(v) above.

6. COOPERATION IN IMPLEMENTATION

- 6.1. In order to coherently implement these standards and guidelines, Beneficiaries and Implementing Bodies must cooperate among themselves, as well as seek coordination and guidance from RB Rail AS as the Rail Baltica project coordinator. RB Rail AS welcomes questions and proposals.
- 6.2. RB Rail AS will apply these procurement standards and guidelines itself as well as through its nominated members in the procurement committees of Beneficiaries and Implementing Bodies procuring under the supervision of RB Rail AS, contracting authorities of Supervised National Procurements will facilitate coherent implementation of these procurement standards and guidelines by other Beneficiaries and Implementing Bodies. Additionally, RB Rail AS may conduct legal checks and audits as it sees fit.

7. STATUS

- 7.1. This is a living document and may be updated by RB Rail AS as necessary. The latest version will be available on the web-page of RB Rail AS, as well as RB Rail AS will notify it to the involved contracting authorities (contracting entities).

(In effect from 21 April 2017)

APPENDIX: SUPPLIER' S DECLARATION

I, the undersigned duly authorised representative, on behalf of [*name of the supplier*] undertake:

1. To respect the freely-exercised right of workers, without distinction, to organize, further and defend their interests and to bargain collectively, as well as to protect those workers from any action or other form of discrimination related to the exercise of their right to organize, to carry out trade union activities and to bargain collectively;
2. Not to use forced or compulsory labour in all its forms, including but not limited to not employ people against their own free will, nor to require people to lodge 'deposits' or identity papers upon commencing employment;
3. Not to employ: (a) children below 14 years of age or, if higher than that age, the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of a contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher; and (b) persons under the age of 18 for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons;
4. To ensure equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and such other ground as may be recognized under the national law of the country or countries where the performance, in whole or in part, of a contract takes place;
5. To ensure the payment of wages in legal fashion, at regular intervals no longer than one month, in full and directly to the workers concerned; to keep an appropriate record of such payments. Deductions from wages will be conducted only under conditions and to the extent prescribed by the applicable law, regulations or collective agreement, and the workers concerned shall be informed of such deductions at the time of each payment. The wages, hours of work and other conditions of work shall be not less favourable than the best conditions prevailing locally (i.e., as contained in: (i) collective agreements covering a substantial proportion of employers and workers; (ii) arbitration awards; or (iii) applicable laws or regulations), for work of the same character performed in the trade or industry concerned in the area where work is carried out;
6. To ensure, so far as is reasonably practicable, that: (a) the workplaces, machinery, equipment and processes under their control are safe and without risk to health; (b) the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and (c) where necessary, adequate protective clothing and protective equipment are provided to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects to health;
7. To support and respect the protection of internationally proclaimed human rights and not to

- become complicit in human rights abuses;
8. To create and maintain an environment that treats all employees with dignity and respect and will not use any threats of violence, sexual exploitation or abuse, verbal or psychological harassment or abuse. No harsh or inhumane treatment coercion or corporal punishment of any kind is tolerated, nor is there to be the threat of any such treatment;
 9. To have an effective environmental policy and to comply with existing legislation and regulations regarding the protection of the environment; wherever possible support a precautionary approach to environmental matters, undertake initiatives to promote greater environmental responsibility and encourage the diffusion of environmentally friendly technologies implementing sound life-cycle practices;
 10. To identify and manage chemical and other materials posing a hazard if released to the environment to ensure their safe handling, movement, storage, recycling or reuse and disposal;
 11. To monitor, control and treat as required prior to discharge or disposal wastewater and solid waste generated from operations, industrial processes and sanitation facilities;
 12. To characterize, monitor, control and treat as required prior to discharge or disposal air emissions of volatile organic chemicals, aerosols, corrosives, particulates, ozone depleting chemicals and combustion by-products generated from operations;
 13. To reduce or eliminate at the source or by practices, such as modifying production, maintenance and facility processes, materials substitution, conservation, recycling and re-using materials, waste of all types, including water and energy;
 14. To adhere to the highest standards of moral and ethical conduct, to respect local laws and not engage in any form of corrupt practices, including but not limited to extortion, fraud, or bribery;
 15. To disclose (a) any situation that may appear as a conflict of interest, such as but not limited to: where a supplier or an undertaking related to the supplier has advised a Beneficiary or Implementing Body or has otherwise been involved in the preparation of the procurement procedure; and (b) if any Beneficiaries' or Implementing Bodies' official, professional under contract with Beneficiary or Implementing Body or sub-contractor may have a direct or indirect interest of any kind in the supplier's business or any kind of economic ties with the supplier;
 16. Not to offer any benefit such as free goods or services, employment or sales opportunity to a Beneficiary's and Implementing Body's staff member in order to facilitate the suppliers' business with Beneficiaries or Implementing Bodies;
 17. Within a period set in the applicable national legislation following separation from service or award of a contract, as the case may be, to refrain from offering employment to any Beneficiaries' and Implementing Bodies' staff in service and former Beneficiaries' and Implementing Bodies' staff members who participated in the procurement process and to whom a legal restriction to receive material

benefits from or be employed by a supplier which participated in a procurement procedure or restrictions with similar effect applies;

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

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

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

- i. bribetaking, bribery, bribe misappropriation, intermediation in bribery, taking of prohibited benefit or commercial bribing;
- ii. fraud, misappropriation or laundering;
- iii. evading payment of taxes and payments equivalent thereto,
- iv. terrorism, financing of terrorism, invitation to terrorism, terrorism

threats or recruiting and training of a person for performance of terror acts;

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

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

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

c. who, by such a decision of a competent authority or a judgment of a court which

has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of infringement of competition rights manifested as a vertical 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. whose insolvency proceedings have been announced (except the case where a bailout or similar set of measures is applied within insolvency proceedings oriented towards prevention of possible bankruptcy and restoration of solvency of the debtor, in which case I shall evaluate the possibility of such supplier to participate in the tender), economic activity of such supplier has been suspended or discontinued, proceedings regarding bankruptcy of such supplier have been initiated or such supplier will be liquidated;

e. who has tax debts in the country where the procurement is organised or a country where such supplier is registered or permanently residing, including debts of State social insurance

contributions, in total exceeding an amount which is common threshold in public procurements in the respective country.

_____ [signature]
[name, last name]
[position]
[date]