

PART A
REFERENCES FROM CLAUSES IN THE GENERAL CONDITIONS

1.4 Law and Language	
1.4.1 Law governing Agreement	The Agreement is governed by laws of the Republic of Latvia The arbitration agreement (Clause 10 [<i>Dispute and Arbitration</i>] of Part A and Clause 10 [<i>Dispute and Arbitration</i>] of Part B) is governed by laws of the Kingdom of Sweden
10 Disputes and Arbitration	
10.4.1 Arbitration rules	International Chamber of Commerce
10.4.1 Language of arbitration	English
10.4.1 Place of arbitration	Stockholm, Sweden

PART B
ADDITIONAL AND AMENDED CLAUSES

<u>10 Disputes and Arbitration</u>
<i>1) Express Sub-Clause 10.2.1 in the following wording:</i>
“Unless settled amicably, any dispute arising out of or in connection with the Agreement may be referred by either Party to adjudication in accordance with the Rules for Adjudication in Appendix 5 [Rules of Adjudication]. The adjudicator shall be agreed between the Parties and appointed in accordance with the said Rules of Adjudication or failing agreement either Party may refer the dispute to the Arbitration in accordance with Clause 10.4 [Arbitration].”
<i>2) Express Sub-Clause 10.2.2 in the following wording:</i>
“The Parties shall bear their own costs arising out of the adjudication and the adjudicator shall not be empowered to award costs to either Party. The Parties shall bear the adjudicator’s fees and costs in equal parts.”
<i>3) Express Sub-Clause 10.2.5 in the following wording:</i>
“Except as stated in Sub-Clause 10.2.1 and Clause 10.5 [Failure to Comply with Adjudicator’s Decision], neither Party shall be entitled to commence arbitration of a dispute unless a notice in respect of that dispute has been given in accordance with Sub-Clause 10.2.3 or 10.2.4. If such a notice has been given, and neither Party commences arbitration of the dispute within one hundred and eighty-two (182) days of giving or receiving the notice, such notice shall be deemed to have lapsed and no longer be valid.”
<i>4) Express sub-paragraph (b) to the Sub-Clause 10.4.1 in the following wording:</i>
“the dispute shall be settled by three arbitrators appointed in accordance with these Rules, except in case of Emergency Arbitration and Expedited Procedure the dispute shall be settled by one arbitrator appointed in accordance with these Rules; and”
<i>4) Add new sub-paragraph (d) to the Sub-Clause 10.4.1 in the following wording:</i>
“the place of arbitration shall be as defined in Part A of these Particular Conditions.”

Appendix 5 - Rules for Adjudication

General

1. Any reference in the Agreement to the Rules for Adjudication shall be deemed to be a reference to these Rules.
2. Definitions in the Agreement shall apply in these Rules.

Appointment of Adjudicator

3. The Parties shall jointly ensure the appointment of the Adjudicator. The Adjudicator shall be a suitably qualified person.
4. The adjudicator shall be deemed to be appointed on the date that the Parties and the adjudicator have all signed an Adjudicator's Agreement. The template of the Adjudicator's Agreement is attached to these Rules. If for any reason the appointment of the Adjudicator is not agreed at the latest within 14 days of the reference of a dispute in accordance with these Rules, then either Party may refer the dispute to the Arbitration in accordance with Clause 10.4 [Arbitration] of the Agreement.
5. The Adjudicator's appointment may be terminated by mutual agreement of the Parties. The Adjudicator's appointment shall expire when the Services have been completed or when any disputes referred to the Adjudicator shall have been withdrawn or decided, whichever is the later.

Terms of Appointment

6. The Adjudicator is to be, and is to remain throughout his appointment, impartial and independent of the Parties and shall immediately disclose in writing to the Parties anything of which he becomes aware which could affect his impartiality or independence.
7. The Adjudicator shall not give advice to the Parties or their representatives concerning the conduct of the project of which the Services form part other than in accordance with these Rules.
8. The Adjudicator shall not be called as a witness by the Parties to give evidence concerning any dispute in connection with, or arising out of, the Agreement.
9. The Adjudicator shall treat the details of the Agreement and all activities and hearings of the Adjudicator as confidential and shall not disclose the same without the prior written consent of the Parties. The Adjudicator shall not, without the consent of the Parties, assign or delegate any of his work under these Rules or engage legal or technical assistance.
10. The Adjudicator may resign by giving 28 days' notice to the Parties. In the event of resignation, death or incapacity, termination or a failure or refusal to perform the duties of Adjudicator under these Rules, the Parties shall agree upon a replacement Adjudicator within 14 days or Rule 4 shall apply.
11. The Adjudicator shall in no circumstances be liable for any claims for anything done or omitted in the discharge of the Adjudicator's duties unless the act or omission is shown to have been in bad faith.
12. If the Adjudicator shall knowingly breach any of the provisions of Rule 6 or act in bad faith, he shall not be entitled to any fees or expenses hereunder and shall reimburse each of the Parties for any fees and expenses properly paid to him if, as a consequence of

such breach any proceedings or decisions of the Adjudicator are rendered void or ineffective.

Payment

13. The Adjudicator shall be paid the fees and expenses set out in the Adjudicator's Agreement.
14. The retainer fee, if applicable, shall be payment in full for:
 - (a) being available, on 28 days' notice, for all hearings and visits;
 - (b) all office overhead expenses such as secretarial services, photocopying and office supplies incurred in connection with his duties;
 - (c) all services performed hereunder except those performed during the days referred to in Rule 15.
15. The daily fee shall be payable for each working day preparing for or attending visits or hearings or preparing decisions including any associated travelling time.
16. The retainer and daily fees shall remain fixed for the period of tenure of the Adjudicator and shall include the remuneration to the Adjudicator as well as all costs associated with performing Adjudicator's function, such as but not limited to telephone expenses, travel expenses, accommodation expenses.
17. All payments to the Adjudicator shall be made by the Parties in equal parts. The Adjudicator's invoices for any monthly retainer, daily fees and expenses shall be submitted not later than the 10th day of the month following the month for which the invoice is issued. The Adjudicator shall submit and the Parties shall accept as valid electronic invoices without secure electronic signature and time stamp. All invoices shall contain a brief description of the activities performed during the relevant period.
18. Invoices of the Adjudicator shall be paid within thirty (30) days of the receipt of the invoice.

Procedure for Obtaining Adjudicator's Decision

19. A dispute between the Parties may be referred in writing by either Party to the Adjudicator for his decision, with a copy to the other Party. If the Adjudicator has not been agreed and appointed by the Parties earlier, the dispute shall be referred in writing to the other Party, together with a proposal for the appointment of an Adjudicator. A reference shall identify the dispute and refer to these Rules.
20. The Adjudicator may decide to visit the site(s), offices or any other location(s) of the Project. The Adjudicator may decide to conduct a hearing in which event he shall decide on the date, place and duration for the hearing. The Adjudicator may request that written statements from the Parties be presented to him prior to, at or after the hearing. The Parties shall promptly provide the Adjudicator with sufficient copies of any documentation and information relevant to the Agreement that he may request.
21. The Adjudicator shall act as an impartial expert, not as an arbitrator, and shall have full authority to conduct any hearing as he thinks fit, not being bound by any rules or procedures other than those set out herein. Without limiting the foregoing, the Adjudicator shall have power to:
 - (a) adopt the procedure to be applied in adjudicating the dispute,
 - (b) make use of his own specialist knowledge, if any,

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- (c) adopt an inquisitorial procedure,
 - (d) open up, review and revise any opinion, instruction, determination, certificate or valuation, related to the dispute,
 - (e) refuse admission to hearings to any persons other than the Client, the Consultant and their respective representatives, and to proceed in the absence of any Party who the Adjudicator is satisfied received notice of the hearing.
22. All communications between either of the Parties and the Adjudicator and all hearings shall be in English. All such communications shall be copied to the other Party.
23. No later than the fifty-sixth day after the day on which the Adjudicator received a reference or, if later, the day on which the Adjudicator's Agreement came into effect, the Adjudicator shall give written notice of his decision to the Parties. Such decision shall include reasons and state that it is given under these Rules.



ADJUDICATOR'S AGREEMENT

In Riga, Latvia, [Date] [Month] 2020

This agreement is made between:

RB Rail AS, reg. No. 40103845025, having its registered address at Krišjāņa Valdemāra iela 8 - 7, Riga, LV-1010, Latvia (hereinafter called “the **Client**”),

and

[title of the Consultant], reg. No. [●], having its registered address at [●] (hereinafter called “the **Consultant**”),

and

[name, last name of the adjudicator], reg. No. [●], having its registered address at [●] (hereinafter called “the **Adjudicator**”),

Whereas:

- (A) the Client and the Consultant have entered into the Agreement;
- (B) under the Agreement, unless settled amicably, any dispute arising out of or in connection with the Agreement may be referred by either Party to adjudication in accordance with the Rules for Adjudication in Appendix 5 [Rules of Adjudication]. The adjudicator shall be agreed between the Parties and appointed in accordance with the said Rules of Adjudication;
- (C) under the Rules of Adjudication, the adjudicator shall be deemed to be appointed on the date that the Parties and the Adjudicator have all signed an Adjudicator's Agreement;
- (D) The Client and the Consultant desire jointly to appoint the Adjudicator;
- (E) The Adjudicator accepts this appointment,

the Client, the Consultant and the Adjudicator agree as follows:

- 1. The provisions of this Adjudicator’s Agreement comprise:
 - a. Clause 10 [Disputes and Arbitration] of the Agreement, and any other provisions of the Agreement that are applicable to the Adjudicator’s activities; and
 - b. The Rules for Adjudication that are appended to the Agreement as Appendix 5.
- 2. The Adjudicator shall be paid in accordance with Clauses 13 – 18 of the Rules for Adjudication. The currency of payment shall be EUR. In respect of Clauses 14 and 15 of the Rules for Adjudication, the amounts of the Adjudicator’s retainer fee and daily fee shall be as follows:
 - a. Retainer fee per month of EUR [●] (excluding VAT);
 - b. Daily fee of EUR [●] (excluding VAT).
- 3. This Adjudicator’s Agreement shall be governed by the laws of Latvia.
- 4. Any dispute or claim arising out of or in connection with this Adjudicator’s Agreement, or the breach, termination or invalidity thereof, shall be resolved by the courts of Latvia with the Court of Vidzeme Suburb of Riga (*Rīgas pilsētas Vidzemes priekšpilsētas tiesa*) as the court of first instance.
- 5. This Adjudicator’s Agreement enters into effect on the date when signed by all parties.
- 6. This Adjudicator’s Agreement is signed in 3 (three) copies, one copy for each party. All copies have the same legal force.

Signed for and on behalf of the Client:

..... Signature of Authorised Signatory
 Full name of above (print)
 Date of signing

Signed for and on behalf of the Consultant:

..... Signature of Authorised Signatory
 Full name of above (print)
 Date of signing

Signed for and on behalf of the Adjudicator:

..... Signature of Adjudicator
 Full name of above (print)
 Date of signing