



**SERVICE AGREEMENT**

on

**RECRUITMENT SERVICES – IN THE BALTIC STATES (LATVIA, LITHUANIA, ESTONIA)**

between

**RB Rail AS**

(the "Principal")

and

[●]

(the "Service Provider")

Agreement registration No [●]

Procurement procedure identification No RBR 2024/4

Riga

2024



**Co-funded by  
the European Union**

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## SERVICE AGREEMENT

### ON RECRUITMENT SERVICES – IN THE BALTIC STATES (LATVIA, LITHUANIA, ESTONIA)

This AGREEMENT ON RECRUITMENT SERVICES – IN THE BALTIC STATES (LATVIA, LITHUANIA, ESTONIA) (the “Agreement”), together with all Annexes thereto, is entered into in Riga, on [●] (the “Effective Date”) by and between:

(1) **RB Rail AS**, a joint stock company registered in the Commercial Register of the Republic of Latvia, registration No 40103845025, legal address at Satekles iela 2B, Riga, LV-1050, Latvia (the “Principal”), represented by [●] acting on the basis of [●], on the one side,

and

(2) [●], a [●] company organized and existing under [●], registration No [●], legal address at [●] (the “Service Provider”), represented by [●] acting on the basis of [●], on the other side,

(the Principal and the Services Provider referred to as the “Parties” and separately – as the “Party”).

#### WHEREAS:

- (A) this Agreement is entered into under the Rail Baltica Global Project which includes all activities undertaken by the respective beneficiaries and implementing bodies of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania in order to build, render operational and commercialise the Rail Baltica railway – a new fast conventional double track electrified railway line with European standard gauge (1435mm) on the route from Tallinn through Pärnu-Riga-Panevėžys-Kaunas to Lithuanian-Polish border, with the connection of Kaunas-Vilnius, and related railway infrastructure in accordance with the agreed route, technical parameters and time schedule (the “Project”);
- (B) the Principal has organised the procurement procedure “**RECRUITMENT SERVICES – IN THE BALTIC STATES (LATVIA, LITHUANIA, ESTONIA)**” (identification No RBR 2024/4) (the “Procurement Procedure”), where the tender proposal submitted by the Services Provider (the “Service Provider’s Proposal”) was selected as the winning bid (enclosed to this Agreement as **Annex C: Technical proposal** and **Annex D: Financial Proposal**);
- (C) This Agreement is co-financed from the Connecting Europe Facility funding instrument (“CEF”) and other recently signed grant agreements or future grant or financing agreements to be signed;

**THEREFORE**, the Parties agree as follows:

### SECTION I. DEFINITIONS AND INTERPRETATION

1.1 *Definitions.* In this Agreement, unless the context requires otherwise, all defined terms shall have the meanings ascribed to such terms in accordance with **Annex A: Definitions and Common Terms**.

1.2 *Interpretation.*

1.2.1 The headings contained in this Agreement shall not be used in its interpretation.

1.2.2 References to the singular shall include references in the plural and vice versa, words denoting a gender shall include any other gender where the context requires, and words denoting natural Persons shall include any other Persons.

1.2.3 References to a treaty, directive, regulation, law or legislative provision shall be construed, at any particular time, as including a reference to any modification, extension or re-enactment of the respective treaty, directive, regulation, law or legislative provision at any time then in force and to all subordinate legislation enacted from time to time.

1.2.4 Any reference to “this Agreement”, “hereof”, “herein”, “herewith”, “hereunder” and words of similar import shall, unless otherwise stated or where the context requires otherwise, include a reference to this Agreement and any part thereof, including its Annexes as amended from time to time.

1.2.5 Unless expressly stated to the contrary, any reference in this Agreement to the right of consent, approval or agreement shall be construed such that the relevant consent, approval or agreement shall not be unreasonably delayed or withheld. The Parties agree and acknowledge that neither

Party shall be required to seek or apply for any consent, approval or agreement by any Person which would place the respective Party in breach of any Applicable Law or Good Industry Practice.

- 1.2.6 A reference to “writing” shall include an e-mail transmission and any means of reproducing words in a tangible and permanently visible form.
- 1.2.7 The words “include” and “including” are to be construed without limitation.
- 1.2.8 Unless indicated otherwise, all references to “days” shall mean calendar days, but “Business Days” shall mean any day except any Saturday (except if the national authorities of Latvia take an official decision that a particular Saturday is not a holiday, in which case such Saturdays are “Business Days”), any Sunday and any day which is a legal holiday in the Republic of Latvia, as the case may be.
- 1.3 *Order of Precedence.* In the event of any discrepancy or inconsistency arising between the documents forming part of this Agreement, the following order of precedence shall apply (the documents listed in Clause 1.3.1. of the Agreement are at the top of the hierarchy and prevail, then those listed in Clause 1.3.2. of the Agreement, and so forth.):
- 1.3.1 this Agreement document (body text) together with **Annex A: Definitions and Common Terms**;
- 1.3.2 Principal’s explanations (clarifications) given in relation to the Procurement Procedure related documents provided during execution of the Procurement Procedure;
- 1.3.3 Procurement Procedure related documents;
- 1.3.4 Clarifications of the Service Provider’s Proposal that were submitted during execution of the Procurement Procedure;
- 1.3.5 Service Provider’s Proposal;
- 1.3.6 All other Annexes of the Agreement.

## SECTION II. GENERAL TERMS AND CONDITIONS.

- 2.1 *Engagement.* The Principal hereby engages the Service Provider to provide and perform the Services on an on-demand basis and the Service Provider hereby accepts such an engagement. The Agreement does not impose an obligation whatsoever on the Principal to appoint the Service Provider to provide any particular amount of Services nor does it guarantee any exclusive right to the Service Provider to provide Services to the Principals.
- 2.2 *Total Value and Term.* The total value of the Agreement is 154 440.00 EUR (one hundred fifty-four thousand and four hundred forty euros, zero cents), excluding VAT (the “Total Value”). The Agreement term is 24 (twenty-four) months starting from the Effective Date or until the Total Value is reached, whichever comes first. In case the Total Value has not been reached, yet the initial 24 (twenty-four) month term has passed, then the Agreement can be further prolonged multiple times for an additional 1 (one) year, or until the Total Value has been reached, whichever comes first. The total term of the Agreement will not exceed 60 (sixty) months.
- 2.3 *Expiry and Termination.* After the expiry of the Agreement term indicated in the Clause 2.2 of the Agreement or once the Total Value has been reached, no more new requests to fulfil the Assignments or the Services can be issued by the Principal. The Agreement terminates once all of the existing Assignments and Services are fully completed by the Service Provider and approved by the Principal and the Parties have fulfilled their contractual obligations arising out of the Agreement.
- 2.4 *Co-Operation of the Parties.* The Parties shall cooperate with one another to fulfil their respective obligations under this Agreement. Both Parties shall endeavour to maintain good working relationships among all key personnel engaged toward provision of the Services.
- 2.5 *Licensing Requirements.* By signing this Agreement, the declaration is made by the Service Provider that the Service Provider and its sub-contractors are registered and licensed to provide the Services in the Republic of Latvia, Lithuania and Estonia, if such requirement is applicable in accordance with the Applicable Laws.
- 2.6 *General Obligations of Service Provider.* The Service Provider shall be responsible for the professional quality, technical accuracy, and timely provision of the Services under this Agreement. The Service Provider shall have an obligation, without additional compensation of any kind, to correct or revise any Defects in concepts, shortlists, specifications, estimates, and other services rendered hereunder and forming part of the Services.

- 2.7 *Acceptance Not a Waiver.* The review, approval or acceptance or payment for the Works forming part of the Service shall not be interpreted or construed to operate as a waiver of any right or cause for action arising out of the Service Provider's performance of any Works under this Agreement. The Service Provider shall remain liable as allowed under this Agreement and under Applicable Law for any and all costs and/or Damages caused by the Service Provider's negligent performance of any of the Works furnished under this Agreement.
- 2.8 *Certain Representations and Warranties by Parties.* Each Party represents and warrants to the other Party, as of the Effective Date, as follows:
- 2.8.1 it has entered into this Agreement with the aim of attaining all of the objectives and performing in all material respects all of the obligations and commitments herein set forth;
  - 2.8.2 it has entered into this Agreement without having any intention or goal whatsoever to violate the Applicable Law, its own Statutes, other constitutional documents or agreements of any kind to which it is a party;
  - 2.8.3 it is not bankrupt and is not the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, it is not in an arrangement with creditors, where its business activities are suspended, or it is in any analogous situation arising from a similar procedure under the laws of the country where it is registered and submits its tax accounts; and
  - 2.8.4 it has entered into this Agreement of its own volition and in good faith.
- 2.9 *Certain Representations and Warranties by Service Provider.* The Service Provider represents and warrants to the Principal, as of the Effective Date, as follows:
- 2.9.1 it has all requisite qualification, skills and competence to provide the Services to the Principal on the terms and conditions of this Agreement which are no less favourable than the terms and conditions of service identified by the Service Provider in any document submitted by the Service Provider to the Principal as part of the Procurement Procedure and on the Service Provider's terms identified in accordance with Service Provider's Proposal;
  - 2.9.2 it holds all requisite permits, approvals and consents necessary to enable performance of the Services according to the specifications contained in the Scope if such are needed in accordance with the Applicable Law;
  - 2.9.3 it has all requisite ability to ensure the highest quality of the Services;
  - 2.9.4 it will assign competent and duly qualified personnel to carry out the Works set out in this Agreement and provide Services according to the highest professional standard and Good Industry Practice;
  - 2.9.5 it is not deemed to be a Person associated with the Principal for the purposes of Applicable Law;
  - 2.9.6 it has been registered as a VAT payer in [●];
  - 2.9.7 it is compliant with all of the requirements of the "Supplier's Declaration" available on the Principals' website (available here: [https://www.railbaltica.org/wp-content/uploads/2024/04/RBGL-RBR-TPL-Z-00005\\_1.0\\_Supplier-Declar.Template.pdf](https://www.railbaltica.org/wp-content/uploads/2024/04/RBGL-RBR-TPL-Z-00005_1.0_Supplier-Declar.Template.pdf)) and will continue to be compliant with all such requirements during the term of this Agreement;
  - 2.9.8 [IF APPLICABLE - *if the Service Provider and the Principal are residing in different jurisdictions and the Services under this Agreement will not be provided through a permanent establishment or fixed base maintained by the Service Provider in the Republic of Latvia*]The Service Provider is aware that the applicable laws of Latvia prescribe certain instances when payments to non-residents are subject to a withholding tax (for instance, in case of management and consultancy services), therefore the Principal will be obliged to make such withholdings in case if the Services provided under this Agreement will qualify under the statutory criteria. No withholdings will be made if the Service Provider (before the Principal will be obliged to make any payment under the Agreement) will provide all necessary information and documents (including, where relevant, a residence certificate confirmed by the competent authority of the Service Provider's country of residence and the Latvian State Revenue Service) allowing to make an exemption from such withholding pursuant to the terms of the applicable laws of Latvia and international conventions or agreements between Latvia and the Service Provider's country of residence.

### SECTION III. OBLIGATIONS OF SERVICE PROVIDER

- 3.1 *General Obligations.* The Service Provider shall perform Services as expeditiously as is consistent with professional skill and care, orderly progress of the Services, and in accordance with this Agreement. The Service Provider shall, at all times during the term of this Agreement, act in good faith towards the Principal in respect of all matters under the Agreement. The Service Provider undertakes to perform the Services in its entirety.
- 3.2 *Duty of Care and Exercise of Authority.* The Service Provider shall:
- 3.2.1 in performing its obligations under this Agreement, exercise reasonable professional skill, diligence and care as may be expected of a properly qualified and competent Person carrying out services of a similar size, nature, type and complexity;
  - 3.2.2 ensure that its personnel are properly qualified and competent in accordance with the relevant standards;
  - 3.2.3 ensure that all plans, shortlists, specifications, estimates, surveys and other documents required to be prepared or submitted by the Service Provider under this Agreement conform to Good Industry Practice generally acceptable at the time of submission of such plans, specifications, estimates, studies and documents;
  - 3.2.4 at all times during the term of the Agreement, ascertain and comply with all Applicable Laws and Good Industry Practice of the Republic of Latvia;
  - 3.2.5 comply, where applicable, with any reasonable requests of the Principal;
  - 3.2.6 notify the Principal of any Defects as soon as they are identified by the Service Provider;
  - 3.2.7 whenever the Services includes the exercise of powers or performance of duties authorized or required pursuant to the terms of any contract entered into between the Principal and any third party, the Service Provider shall:
    - a) act in accordance with the terms and conditions of the agreement entered into between the Principal and the relevant third party; provided, however, that the details of such powers and duties, to the extent not described pursuant to **Annex B: Technical Specification** and **Annex C: Technical proposal** are acceptable to the Service Provider;
    - b) if authorized to certify, decide or exercise discretion, do so fairly between the Principal and third party not as an arbitrator but as an independent professional exercising its best skill and judgment; and
    - c) to the extent so authorized, cause the obligations of any third party to be adjusted or modified, subject to obtaining the prior approval of the Principal to any adjustment or modification which can have a material effect on Costs, quality or time (except in any emergency when the Service Provider shall inform the Principal as soon as practicable).
- 3.3 *Maintenance of Records.* During the term of the Services and during ten (10) years from expiration or termination of this Agreement for any reason whatsoever, the Service Provider shall keep and maintain clear, adequate and accurate records and Documentation evidencing, to the reasonable satisfaction of the Principal, that the Services have been and are being carried out in accordance with the relevant standards. In case of on-going audits, appeals, litigation or pursuit of claims concerning the grant, including in the case of correction of systemic or recurrent errors, irregularities, fraud or breach of obligations, the records shall be kept and maintained longer.
- 3.4 *Access to Documentation.* At all times during the term of the Services, the Principal shall have access to all Documentation. This access shall be continuing and survive the termination of this Agreement for either cause or convenience. The Documentation shall be kept in a generally recognised format for a period of ten (10) years from the date of termination of this Agreement or the Final Acceptance Date, as applicable. All records forming part of the Documentation shall be available to the Principal auditor, or expert appointed by the Principal during the period of time specified in accordance with this Clause.
- 3.5 *Right to Sub-Contract and Approved Staff.* In carrying out the Services, the Service Provider may only rely on the services of those Approved Sub-Contractors and Approved Staff that are listed in **Annex E: List of Approved Sub-Contractors and Approved Staff**. Such list may, from time to time, be modified or supplemented in accordance with the terms and subject to the criteria contained in the Agreement and

applicable Public Procurement Law of the Republic of Latvia. Parties shall specify the name, contact details (legal representative(s)) of each Approved Sub-Contractor and Approved Staff as of the Effective Date in **Annex E: List of Approved Sub-Contractors and Approved Staff**. The Service Provider shall have an obligation to notify the Principal in writing of any changes to Sub-Contractor or Approved Staff data specified in **Annex E: List of Approved Sub-Contractors and Approved Staff** occurring during the term of this Agreement and of the required information for any new Sub-Contractors or Approved Staff member which it may subsequently engage toward provision of the Services. In respect of previously mentioned:

- 3.5.1 Pursuant to the Public Procurement Law of the Republic of Latvia the Service Provider shall obtain prior written consent of the Principal for the replacement of each Sub-Contractor or each Approved Staff member, or each key personnel indicated in **Annex E: List of Approved Sub-Contractors and Approved Staff** and involvement of additional Sub-contractors or Approved Staff members, or key personnel.
- 3.5.2 Review and evaluation of the replacement of Sub-Contractors or Approved Staff shall be carried out, and the consent or refusal to give consent shall be rendered by the Principal in accordance with Article 62 of the Public Procurement Law of the Republic of Latvia.
- 3.5.3 The Service Provider shall replace the Sub-Contractor and/or Approved Staff member which, during the effectiveness of this Agreement, fails to meet any of the requirements set out during the Procurement Procedure.
- 3.6 *Responsibility for Performance by Sub-Contractors.* The Service Provider shall retain the complete responsibility for the proper performance of all of its obligations under this Agreement, and any act, failure to act, breach or negligence on the part of any of its Approved Sub-Contractors or any other involved in the performance of the Services, shall, for the purposes of this Agreement, be deemed to be the act, failure to act, breach or negligence of the Service Provider.
- 3.7 *Property of Principal.* Anything supplied by the Service Provider or paid for by the Principal in connection with the provision of the Services under this Agreement shall constitute the property of the Principal and, to the extent practicable, shall be marked by the Service Provider as a property of the Principal.
- 3.8 *Reservation of Certain Approval Rights.* Nothing in this Agreement shall require the Principal to give or procure the giving of any consent or approval which would be contrary to or inconsistent with the interests of protection, safety and efficient operation of the Railway or the Project and the safety of Persons or property.
- 3.9 *Obligations of Service Provider on Termination.* In the event of issue or receipt of a notice of termination of the Agreement in compliance with the **Section IX. Termination and suspension**, the Service Provider shall:
  - 3.9.1 take immediate steps to bring an end to the performance of the Services in an orderly manner;
  - 3.9.2 make arrangements to minimize the expenditure under this Agreement as rapidly as possible; and
  - 3.9.3 pass to the Principal a complete set of any documents, manuals or other information that the Principal may require in connection with the Project and which, at the time of termination, are in the possession or under the control of the Service Provider.
- 3.10 *Attendance of Meetings.* To the extent necessary to ensure smooth and efficient provision of the Services and taking into account the provisions of **SECTION VI. SERVICE MEETINGS AND REPORTING** of the Agreement, the Service Provider shall, at the Principal's request, hold and/or attend meetings with the Principal or any Persons. The Principal shall have the right to determine which of the Approved Staff shall be obliged to attend such a meeting.
- 3.11 *Compliance with Laws.* The Service Provider shall review the Applicable Laws applicable to the provision of the Services. In carrying out any activities forming part of the Services, the Service Provider shall, at all times, ensure compliance with requirements imposed by supra-national and/or governmental authorities having jurisdiction over the Project.
- 3.12 *Information Furnished by Principal.* The Service Provider shall be entitled to rely on the accuracy and completeness the information furnished by the Principal. The Service Provider shall inform the Principal if the Service Provider becomes aware of any errors, omissions, or inconsistencies in the provided information.
- 3.13 *No Conflicting Activity.* Except with the Principal's knowledge and express written permission, the Service Provider shall not engage in any activity, or accept any employment, other agreement, interest, or contribution that would reasonably appear to compromise the Service Provider's professional judgment and performance

with respect to the Services and/or the Project. In performing the Services, the Service Provider shall take all necessary measures to prevent any situation where the impartial and objective implementation of the Services is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest.

3.14 *Certain Negative Covenants.* In carrying out the Services, the Service Provider undertakes to ensure that not only the Service Provider, but also the Persons from whom it is planned to procure any services:

3.14.1 do not meet the characteristics set out in Section 42 Paragraph 2 of the Public Procurement Law of the Republic of Latvia;

3.14.2 is not considered to be:

- a) a citizen of Belarus or Russia, a natural person residing in Belarus or Russia, a legal person, entity, body established in Belarus or Russia;
- b) a legal person, entity or body whose proprietary rights are directly or indirectly owned by an entity referred to in Clause 3.14.2 a) of the Agreement;
- c) a natural or legal person, entity or body acting on behalf or at the direction of an entity referred to in Clauses 3.14.2 a) and 3.14.2 b) of the agreement.

3.15 *Visibility Requirements.* At all times during provision of the Services, the Service Provider undertakes to comply with each of the following requirements:

3.15.1 any report, brochure, document or information related to the Services provided by the Service Provider to the Principal which the Service Provider makes publicly available shall include each of the following:

- a) a funding statement which indicates that the Services are financed from CEF funds substantially in the following form: “Co-funded by the European Union”;
- b) with respect to printed materials, a disclaimer releasing the European Union from liability with respect to any contents of any distributed materials substantially in the form as follows: “The sole responsibility of this publication lies with the author. The European Union is not responsible for any use that may be made of the information contained therein”. The disclaimer in all official languages of the European Union can be viewed on the website [https://cinea.ec.europa.eu/communication-toolkit\\_en](https://cinea.ec.europa.eu/communication-toolkit_en); and
- c) the flag of the Council of Europe and the European Union.

3.15.2 the requirements set forth in Clauses 3.15.1.1 and 3.15.1.3 of this Agreement can be complied with by means of utilizing the following logo (if the Service Provider uses this logo, the Service Provider shall ensure that the individual elements forming part of the logo are not separated (the logo shall be used as a single unit) and sufficient free space is ensured around the logo):



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3.15.3 in order to comply with the latest applicable visibility requirements established by the European Union, the Service Provider shall regularly monitor changes to visibility requirements. At the Effective Date, the visibility requirements are available for review on the webpage [https://cinea.ec.europa.eu/communication-toolkit\\_en](https://cinea.ec.europa.eu/communication-toolkit_en).

#### SECTION IV. OBLIGATIONS OF PRINCIPAL

4.1 *Supply of Information.* Unless otherwise provided under this Agreement, the Principal shall, in a timely manner, provide to the Service Provider any information necessary for the provision of the Services or fulfilment of any other obligations under the Agreement, as may reasonably be requested by the Service Provider for the purposes of the Services and Assignments, provided that the Principal is in possession of such information.

4.2 *Review of Documentation.* The Principal shall examine Documentation as may be submitted by the Service Provider for review by the Principal toward partial completion of the Services and, upon request of the Service Provider, shall render decisions and opinions pertaining thereto.



- 4.3 *Decisions by Principal.* On all matters properly referred to it by the Service Provider in writing the Principal shall give its decision in writing so as not to delay the Services and within a reasonable time.
- 4.4 *Action Upon Becoming Aware of Defects.* In the event the Principal observes or otherwise becomes aware of any Defects in the Services or non-conformance of any action forming part of the Services with the Documentation, the Principal shall give prompt notice thereof to the Service Provider. The Service Provider shall have the obligation to correct such Defects in the Service or non-conformance of any action forming part of the Services.

## SECTION V. PERSONNEL AND REPRESENTATIVES

- 5.1 *Supply of Personnel.* The personnel who are designated by the Service Provider shall be fit for their respective assignments, and their qualifications shall be acceptable to the Principal. For the sake of clarity, the Service Provider must ensure timely and uninterrupted provision of the Services. Therefore, in the event that the Service Provider's Representative or Approved Staff are permanently or temporarily absent for any reason, the Service Provider is obliged to immediately replace such persons as the case may be to ensure uninterrupted implementation of the Services.
- 5.2 *Representatives.* Each Party shall appoint an officer, employee or individual to serve as its representative toward supply or receipt of the Services with full authority to act on its behalf in connection with this Agreement, without the right to amend the terms of the Agreement, (the "Representatives"), the initial Representatives having been identified in accordance with **Annex F: Representatives**. Any restriction placed by either Party on its Representative's authority shall be notified to the other Party in writing in order to be effective. The Representatives may delegate their authority by notice in writing specifying the identity of the delegate and specifying the scope of authority so delegated. In addition to the appointment of a Representative in accordance with this Clause 5.2, to the extent required by the Principal, the Service Provider shall designate an individual to liaise with the Representative of the Principal in each country where the Project is implemented. Each Party may replace or remove any Representative or delegate new Representatives by notifying in writing the other Party immediately, but not later than 1 (one) business day after the appointment, replacement or the removal of the respective Representative. In such circumstances, no separate amendments to the Agreement are required.
- 5.3 *Changes in Personnel.* Taking into account the provisions of the Clause 3.5, to the extent necessary to temporarily or permanently replace any Person among personnel of either Party engaged toward provision or receipt of the Services, the Party responsible for the appointment of such Person shall immediately arrange for replacement of the appointed Person by another Person of comparable competence.
- 5.4 *Supplemental Personnel.* To the extent necessity arises to supplement the personnel of the Service Provider engaged toward provision of the Services with additional personnel, the Service Provider shall immediately arrange for engagement of such supplemental personnel. The costs of such engagement shall be borne by the Service Provider. For the avoidance of any doubt, the engagement of supplemental personnel under this Clause 5.4 shall not require approval by the Principal, provided that these personnel comply with the law and this Agreement.

## SECTION VI. SERVICE MEETINGS AND REPORTING

- 6.1 *Service Meetings.* The Service Provider shall arrange project's communication's planning meetings on weekly, monthly and quarterly bases (or more frequently, to the extent mutually agreed by the Parties) if the Principal requests such meetings to be scheduled, at which appropriate personnel of the Service Provider and the Principal and the Representatives of each Party shall be present. Service Provider shall record all meetings (also online meetings) between Parties and prepare meeting reports within five (5) Business Days after each meeting at the request of the Principal. All meeting reports shall be harmonized by Principal.
- 6.2 *Reporting.* The Service Provider shall, in a format and at intervals to be agreed with the Principal:
- 6.2.1 provide the Principal with regular monthly reports and status updates on the progress of the Works, if not agreed otherwise by the Principal;
  - 6.2.2 inform on any changes to the Annexes of this Agreement, which the Service Provider considers may be needed in order to fulfil the objectives set out in the Agreement; and
  - 6.2.3 use reasonable endeavours to provide any other information and status updates as may be reasonably requested by the Principal at any time.

- 6.3 *Obligation to Act Pursuant to Principal's Comments.* In performing the Services, the Service Provider shall have due regard to any comments made by the Principal in connection with any review of the Documentation and shall provide reasons to the Principal where it does not take into account any such comments.
- 6.4 *Ambiguities and Inconsistencies.* Either Party shall notify the other Party as soon as it becomes aware of any ambiguity or inconsistency in or between any relevant documents, or inconsistency between documents and comments made by the Principal about the Services provided by the Service Provider. The Principal shall have the absolute and exclusive discretion in resolving any such ambiguity or inconsistency.

## SECTION VII. COMMENCEMENT OF SERVICE, AND ACCEPTANCE

- 7.1 *Service Commencement.* Service Provider shall be engaged by the Principal to provide the Services on an on-demand basis, with each instance of such an engagement constituting a separate assignment to perform the Services (the "Assignment"). The Parties shall agree on each Assignment constituting a part of the Services separately in accordance with Clause 7.2 of the Agreement. The Service Provider shall render the Services with due diligence, having, among other things, due regard to any applicable Milestones for each Deliverable agreed by the Parties.
- 7.2 *Appointment of an Assignment.* The Principal invites the Service Provider to implement the Assignment by sending a request for the fulfilment of the Assignment via e-mail in the form chosen by the Principal indicating at least the position title, preliminary job description and invitation to the vacancy specification meeting at which the precise Scope of the Assignment will be specified (the "Vacancy Specification Meeting"). The Parties shall hold the Vacancy Specification Meeting within five (5) Business Days following the Principals request for Assignment, if not agreed otherwise by the Parties. The mandatory participants in the Vacancy Specification Meetings are at least 1 (one) Representative of the Principal from the Principal's side, and the Approved Staff responsible for carrying out the particular Assignment. At the Vacancy Specification Meeting the Parties shall agree on the specific Deliverable, Milestone and Fee to be determined in compliance with the Scope, **Annex D: Financial Proposal**, **Annex C: Technical proposal** and **Annex B: Technical Specification**, and thereafter the above information shall be updated to the recruitment log - an online recruitment log maintained by the Service Provider reflecting up-to-date detailed information of the ongoing and finalized Assignments ("Recruitment Log").
- 7.3 *Recruitment Log.* The Service Provider shall update the Recruitment Log with up-to-date information on the Assignment as agreed by the parties in the Vacancy Specification Meeting no later than the next Business Day following the Vacancy Specification Meeting. The Principal is entitled to challenge the Recruitment Log entries by submitting a written notice via e-mail to the Service Provider, in particular in relation to the Deliverable, Milestone, Fee of the particular Assignment etc., if they do not comply with the mutual agreement of the Parties as of the Vacancy Specification meeting, or if they do not comply with the material terms of the Agreement, including, the Scope and/or **Annex D: Financial Proposal**, and/or **Annex C: Technical proposal** and/or **Annex B: Technical Specification**.
- 7.4 *Contracts with multiple candidates.* The Principal has the right to conclude the Employment Contract with multiple Candidates who are selected in the framework of the execution of 1 (one) Assignment.
- 7.5 *Repeated Execution of an Assignment.* In case:
- 7.5.1 The Candidate with which the Principal has entered into the Employment Contract does not withstand the probation period for whatever reason, the Service Provider is obliged to repeat the provision of the Services within the scope of the Assignment, within which the respective Candidate was selected, i.e., in this case, inter alia, the Service Provider shall be obliged to repeatedly submit the Deliverable (shortlist of Candidates) within the timeframe specified in the **Annex B: Technical Specification** of the Agreement (considering the relevant Position level), where the start of the deadline countdown would be the day following the receipt of the Principals' notice of termination of the Candidates Employment Contract. For the sake of clarity, the procedure referred to in this Clause shall not apply to the cases referred to in Clause 7.5.2 of the Agreement.
- 7.5.2 If the Candidate in respect of which the Principal has paid the Fee in accordance with the Clause 8.1.3 of the Agreement fails to withstand the probation period for whatever reason, the Service Provider is obliged to start the provision of the Services from the beginning (by starting the process with the completion of the actions set out in Clause 7.2 of the Agreement).

- 7.6 *Acceptance of a specific Assignment.* The Parties agree that each specific Assignment shall be deemed as completed and accepted if the Service Provider has fully provided the Principal with the required Services according to the Scope set out in the Recruitment Log and terms of the Agreement.
- 7.7 *Impediments and Delays.* If the provision of the Services, or any part thereof, is impeded or delayed by the Principal or any third party engaged by the Principal, and as a result of that additional time is needed to execute the Assignment:
- 7.7.1 the Service Provider shall inform the Principal of the circumstances and probable effects of such impediment taking into consideration the Assignment; and
- 7.7.2 the time initially allocated for the execution of the Assignment shall be increased, and any Milestone affected by the impediment or delay shall be extended accordingly.
- 7.8 *General duty of participation.* The Service Provider undertakes a general obligation to provide the Services and thus shall be obliged to fulfil Assignment requested by the Principal in accordance with the terms of the Agreement. The Service Provider has a right to reject the fulfilment of the Assignment only in exceptional cases where the Service Provider envisages that the implementation of a particular Assignment would result in a material conflict with the requirements of the Agreement. The decision of the Service Provider to reject the Principal's request for Assignment shall be provided in writing by stating the reasons for such decision in sufficient detail.
- 7.9 *Final Acceptance of Services.* Final acceptance of the Services as a whole shall occur upon the expiry or termination of this Agreement. Final acceptance shall be evidenced by means of both Parties mutually signing the Final Acceptance Note substantially in the form of **ANNEX G: FINAL ACCEPTANCE NOTE** (the "Final Acceptance Note"). The date of the Final Acceptance Note shall constitute the "Final Acceptance Date" with respect to the Services in their entirety. The Principal shall not unreasonably withhold or delay issuance of a Final Acceptance Note. Final Recruitment Log printout shall be attached to the Final Acceptance Note as an annex and it will become an integral part of the Final Acceptance Note.

## SECTION VIII. PAYMENT

- 8.1 *Fee.* For the provision of the Services that are provided in accordance with the terms of the Assignment and the Agreement, the Principal undertakes to pay to the Service Provider a remuneration in the amount which shall be determined in compliance with this **SECTION VIII. PAYMENT**, the **Annex D: Financial Proposal** and other relevant terms of the Agreement (the "Fee"). It is acknowledged and agreed that the Fee shall include all Costs and expenses incurred by the Service Provider towards the provision of the Services. The following considerations will be taken into account to determine the Fee payable to the Service Provider:
- 8.1.1 Unless one of the special cases mentioned below in other sub-clauses of the Clause 8.1 of the Agreement applies, the Principal undertakes to pay the Service Provider the Fee in compliance with the terms of the Agreement and the following payment schedule:

Completion Dates	Payment, % from the Fee
The Principal enters into the Employment Contract with the respective Candidate and the Candidate starts to fulfil duties arising from the respective Employment Contract	70% of the total Fee payable for the particular Position level (P1, P2, or P3)
The respective Candidate withstands the probation period stipulated in the Employment Contract	30% of the total Fee payable for the particular Position level (P1, P2, or P3)

- 8.1.2 In case the Principal, during the execution of the particular Assignment, enters into the Employment Contract with the Candidate found and proposed by the Principal (not the Service Provider) the Service Provider is entitled to receive fifty percent (50%) of Fee payable according to Clause 8.1.1 of the Agreement. For the sake of clarity, the payment schedule set out in Clause 8.1.1 of the Agreement (70% and 30% split) will also be used in the event that the Fee referred to in this Clause has to be paid.
- 8.1.3 In case the Principal enters into the Employment Contract with two (2) or more Candidates from the shortlist provided by the Service Provider within the same Assignment and they commence to perform the duties under the Employment Contract, the Principal, in addition to Fee payable

according to Clause 8.1.1 of the Agreement for the first recruited Candidate, for each additional Candidate (for the second and subsequent) shall pay to the Service Provider additional compensation equivalent to fifty percent (50%) of the Fee payable for the first recruited Candidate. As the first recruited Candidate will be deemed the one who first signs the Employment Contract with the Principal and starts to fulfil its duties arising from the respective Employment Contract. For the sake of clarity, the payment schedule set out in Clause 8.1.1 of the Agreement (70% and 30% split) will also be used for the payment of the Fee for the second and subsequent Candidates with whom an Employment Contracts will be concluded.

- 8.1.4 In case the selection of the Candidates is repeated pursuant to Clause 7.5.1 of the Agreement, the Service Provider is not entitled to request additional compensation of Costs or Fees from the Principal. but the Service Provider will, however, be entitled to receive unpaid 30% (thirty percent) of the total Fee payable for the particular Position level when the new Candidate withstands the probation period stipulated in the respective Employment Contract.
- 8.1.5 In the case the fulfilment of the new Assignment is started pursuant to Clause 7.5.2 of the Agreement, the Fee payable according to the Clause 8.1.1 of the Agreement will be reduced by the amount previously paid to the Service Provider in accordance with Clause 8.1.2 of the Agreement.
- 8.1.6 If the Principal terminates the Assignment, the Principal shall have an obligation to pay the Service Provider a termination fee for the specific Assignment in the amount of fifty percent (50%) of the Fee payable for the respective Position level (Position levels P1; P2 or P3) only in case if the Assignment is terminated after the Service Provider has already submitted the Deliverable (a shortlist of at least 3 (three) qualified Candidates) to the Principal or in case four (4) weeks has passed since the respective Vacancy Specification Meeting was held. The payment obligation referred to in this Clause is not applicable in the event of termination of the Agreement by the Principal occurring as a result of a violation of material breach by the Service Provider, and in the events described under Clause 8.1.7 of the Agreement.
- 8.1.7 The Principal shall not pay the termination fee to the Service Provider as indicated under Clause 8.1.6 of the Agreement if:
- a) the submitted Deliverable does not comply with the requirements of the Agreement, e.g., it does not include at least three (3) qualified Candidates who comply with the requirements of the vacancy;
  - b) the Service Provider has the obligation to repeat the provision of the Services within the scope of the previous Assignment under Clause 7.5.1 of the Agreement but the Deliverable does not comply with the requirements of the Agreement, e.g., it does not include at least three (3) qualified Candidates who comply with the requirements of the vacancy, or the Service Provider has not submitted the Deliverable within the Milestone specified within the Agreement;
- 8.2 *Invoicing.* Following each Completion Date and provided that the Principal has approved the receipt and conformance of the Services to which the invoice is related to, the Service Provider shall deliver to the Principal an invoice specifying the amount of Fee payable, reasonable breakdown of the provided and approved Services, the time period in which the Fee is payable, which shall not be less than 30 (thirty) days following the date when the Principal has received the invoice and other details specified in Clause 8.6 of the agreement. For the avoidance of any doubt, the Principal shall not be required to pay any amount under this Agreement with respect to any part of the Services which has not been recognised by the Principal as having been duly performed.
- 8.3 *Set-offs.* The Principal reserves the right to make the payments to the Service Provider with set-off, retention, counterclaim, abatement or other deduction of any kind if the nature of such set-off, retention, counterclaim, abatement or other deduction arises from this Agreement and the obligations of the Service Provider provided herein (e.g., in cases of accrued contractual penalty amounts etc.). If the Principal uses the right to make the payments to the Service Provider with set-off, retention, counterclaim, abatement or other deduction of any kind, then the Principal so notifies to the Service Provider no later than on the date of the respective payment stating the amount, the grounds and the basis on the Principal uses its right to set-off, retention, counterclaim, abatement or other deduction.

- 8.4 *Costs and Commissions.* Each Party shall bear its own costs, fees, commissions and expenses incurred in connection with the transfer of any funds under this Agreement to the other Party.
- 8.5 *Compliance with Tax Obligations in Latvia.* It is acknowledged and agreed by the Parties that the Fee shall include all taxes and duties payable by the Service Provider in the consequence of provision of the Services, except value added tax (VAT). The Service Provider shall, at the sole cost and expense of the Service Provider, comply with the obligation to pay all taxes and duties relevant to the provision of the Services in Latvia and in accordance with Applicable Law of Latvia. In addition, the Service Provider shall assume all risks associated with the payment or obligation to pay such taxes and duties, if any. The Service Provider assumes all risks associated with the possible increase in the amount of the Fee arising as a result of the obligation of having to pay any such taxes or duties, except as a result of a change in law.
- 8.6 *Invoice.* The Service Provider's invoices shall contain the following Service Provider's details and details about the Agreement:

Service Provider's firm name	[●]
Service Provider's Registration No	[●]
Service Provider's VAT payer's No or indication that the Service provider is not a VAT payer	[●]
Service Provider's legal address, city, Zip code, country	[●]
Legal name of the Service Provider's Bank	[●]
Service Provider's Bank SWIFT Code	[●]
Service Provider's Bank IBAN Account No	[●]
Principal's firm name, registration No and VAT No	RB Rail AS 40103845025 LV40103845025
Subject:	For services provided under the Agreement No [●]
Other information:	If requested by the Principal, CEF references and/or any other information related to the provision of the Services.

The Service Provider must send invoices to the Principal electronically to the following e-mail address: [invoices@railbaltica.org](mailto:invoices@railbaltica.org). The Principal may reject the invoice or at any point suspend the payment deadline if (i) the Services billed has not been recognised by the Principal as having been duly performed; (ii) invoice supporting documents, if any needed, are missing; (iii) the invoice is incorrect or does not contain all the necessary information. In such case the Principal must notify the Service Provider of the suspension and the reasons for it. After the reason for suspending the payment deadline is rectified, the suspension will be lifted, and the remaining payment period will resume.

#### SECTION IX. TERMINATION AND SUSPENSION

- 9.1 *Termination for Material Breach or Bankruptcy.* Either Party shall be entitled to terminate this Agreement upon giving a written notice of termination to the other Party in the event of material breach by the other Party of any of its obligations under this Agreement. The written notice of termination shall contain an itemised description of the breach. For the purposes of this Clause 9.1 an event of material breach shall include any of the following:

- 9.1.1 commitment by a Party of any persistent or material breach of this Agreement (which shall include failure to pay an amount of at least EUR 10,000 due to the other Party or perform any part of the Service valued at least EUR 10,000);
- 9.1.2 any of the representations or warranties given by either Party under Clause 2.8 of the Agreement or any of the representations or warranties given by the Service Provider under Clause 2.9 of the Agreement proving to be untrue; or
- 9.1.3 breach by the Service Provider of the undertaking contained in Clause 10.2 of the Agreement.
- 9.2 *Right to Terminate Immediately.* Notwithstanding anything to the contrary contained in this Agreement, a Party may terminate this Agreement immediately upon giving the other Party a written notice of termination explaining, in reasonable detail, the reason for termination upon occurrence of any of the following:
- 9.2.1 breach by the other Party of Clause 19.5 of the Agreement;
- 9.2.2 an event of Force Majeure has been continuing during more than sixty (60) days;
- 9.2.3 the other Party had passed a resolution for winding-up (other than in order to amalgamate or reconstruct);
- 9.2.4 breach by the Service Provider any of the confidentiality undertakings contained in **Section X. Intellectual property rights**;
- 9.2.5 the other Party is unable to pay its debts and has presented a petition for voluntary bankruptcy;
- 9.2.6 the other Party had a bankruptcy order issued against it;
- 9.2.7 the other Party has a provisional receiver or administrative receiver appointed over the whole or a substantial part of its undertaking or assets;
- 9.2.8 liquidation, insolvency or legal protection proceedings have been initiated with respect to the other Party or the other Party is declared insolvent;
- 9.2.9 if the obligations arising from the Agreement cannot be fulfilled because of international (including OFAC) or national sanctions, or a Member State's of the European Union or North Atlantic Treaty Organization applied sanctions;
- 9.2.10 if the warranties given by the Service Provider under Clause 3.14 of the Agreement are proven to be untrue;
- 9.2.11 the occurrence of any event analogous to the events enumerated under Clauses 9.2.5 - 9.2.9 of the Agreement under the law of any jurisdiction to which the other Party's assets and undertaking are subject.
- 9.3 *Principal's Right to Terminate Immediately.* The Principal may terminate this Agreement immediately upon giving the other Party a written notice of termination if the CEF Co-financing for further financing of the Services is not available to the Principal. In such a case, the Principal shall pay the Service Provider the fees in respect of the Services provided under this Agreement up to the date of the notification of the termination of this Agreement and the Principal is not obliged to pay contractual or any other penalty or Damages to the Service Provider.
- 9.4 *Termination according to Public Procurement Law.* The Agreement can be immediately terminated upon giving the other Party a written notice of termination explaining, in reasonable detail, the reason for termination upon occurrence of any of the provisions mentioned in the Article 64 of the Public Procurement Law. In such a case, the Principal shall pay the Service Provider the fees in respect of the Works provided under this Agreement up to the date of the notification of the termination of this Agreement and the Principal is not obliged to pay contractual or any other penalty or Damages to the Service Provider.
- 9.5 *Principals' Right to Terminate.* The Principal may unilaterally terminate this Agreement by giving to the Service Provider a written notice of termination two (2) months in advance. In such a case, the Principal shall pay the Service Provider the fees in respect of the Services provided under this Agreement up to the date of the notification of the termination of this Agreement and the Principal is not obliged to pay contractual or any other penalty or Damages to the Service Provider.
- 9.6 *Consequences of Termination.* Upon expiration or termination of this Agreement, the obligations of the Parties set forth in this Agreement shall cease, except with respect to the following:

- 9.6.1 any obligations arising as a result of any antecedent breach of this Agreement or any accrued rights;
- 9.6.2 the provisions stipulated in accordance with Clauses 3.3, 3.4, 9.7, 10.5, 10.6, 10.7, **Section X Intellectual Property Rights, Section XI. Confidentiality, Section XIV. Right to audit, Section XV. On-the-spot visits, Section XVI. Notices and communication, Section XVII. Liability and Section XVIII. Governing Law and resolution of disputes** which shall survive the termination or expiry of this Agreement and continue in full force and effect along with any other Clauses of or Annexes hereof which are necessary to give effect to the clauses specifically identified in this Clause 9.6.2 of the Agreement.
- 9.7 *Partial Acceptance.* Notwithstanding anything in this Agreement to the contrary, in the event of termination of this Agreement, the Principal shall have the right, in the sole discretion of the Principal, to partially accept any Works, part of Works or part of the Services delivered to the Principal under this Agreement (the "Right of Partial Acceptance"). The Principal shall notify the Service Provider of its intention to exercise the Right of Partial Acceptance in the termination notice given in accordance with Clause 9.1 or Clause 9.2 of this Agreement, specifying, in reasonable detail, the Works, part of Works or part of the Services which the Principal would like to partially accept. In the event of receipt of such notice, the Service Provider shall reasonably cooperate with the Principal in order to ascertain transfer to the Principal of ownership in the result(s) of such Works, part of Works or part of the Services and determination of the amount of consideration payable by the Principal.
- 9.8 *Principal's Obligation to Pay.* Subject to the provisions of Clause 9.7 of the Agreement, if the Agreement is terminated due to the fault of the Service Provider, the Principal shall pay for those parts of the Service that have been fully completed, but the Principal shall have no obligation to cover the Costs incurred by the Service Provider for the uncompleted Services.
- 9.9 *No Obligation to Pay Costs Incurred Prior to Acceptance.* Notwithstanding anything set forth in this Agreement to the contrary including, without limitation, under Clause 9.7 of the Agreement, the Principal shall have no obligation to pay any of the Costs incurred by the Service Provider with respect to the Services (or part of the Services) not deemed as having been accepted by the Principal.
- 9.10 *No Prejudice to Other Rights.* The right to terminate this Agreement shall be without prejudice to any other right of *either* Party which has accrued prior to or as a result of such termination or to any remedy available to either Party under the terms of this Agreement or in accordance with Applicable Law.
- 9.11 *Termination of an Assignment.* In view of Clause 8.1.6 of the Agreement, the Principal shall be entitled to immediately terminate any Assignment at any moment upon giving a written notice of termination to the Service Provider.

## SECTION X. INTELLECTUAL PROPERTY RIGHTS

- 10.1 *Proprietary Rights.* All intellectual property rights created, developed, subsisting during provision of the Services (the "Intellectual Property") is and shall become the property of the Principal as of the moment of creation regardless of whether the respective Deliverable, Documentation etc. is produced or finally accepted. For the avoidance of any doubt, ownership shall confer upon the Principal, without limitation, each of the following:
- 10.1.1 the right to reproduce the Documentation, or any part thereof, and distribute copies of the Documentation or any part thereof;
- 10.1.2 the right to modify, amend and supplement the Documentation, or any part thereof;
- 10.1.3 the right to licence the Documentation, or any part thereof, for use by others;
- 10.1.4 the right to transfer ownership in the Documentation, or any part thereof, to others.
- 10.2 *Intellectual Property in Documentation.* The Services represents and warrants that it owns all Intellectual Property required for the purposes of completing its obligations under this Agreement and in all Documentation deliverable by or on behalf of the Service Provider under this Agreement and that, to the extent any Intellectual Property in any Documentation is not owned by the Service Provider, it has obtained all requisite consents from owner(s) of all Intellectual Property in the Documentation to fulfil all of the obligations undertaken by the Service Provider under this Agreement and has fully discharged all obligations with respect to payment of any royalties or fees.

- 10.3 *Grant of Limited License to Service Provider.* The Principal shall be deemed to have granted the Service Provider licence to reproduce, modify and distribute copies of any Documentation forming part of any Deliverable for the purposes of the Services and the Project, subject to the following restrictions:
- 10.3.1 the license shall apply during the term of this Agreement only;
  - 10.3.2 the permitted use shall only cover the right to reproduce, modify and distribute the Documentation, or any part thereof, for the purposes of performing, implementing or modifying the Services; and
  - 10.3.3 the Documentation, or any part thereof, shall not, without the prior consent by the Principal, be distributed or communicated to any third party for purposes other than those permitted in accordance with **SECTION X. INTELLECTUAL PROPERTY RIGHTS** of the Agreement.
- 10.4 *No Additional Royalty.* It is acknowledged and agreed by the Parties that consideration for the transfer of ownership in the Intellectual Property shall be forming part of the Fee and no additional royalty, fee or other consideration of any kind shall be payable by the Principal to the Service Provider or to any third party in consideration of the transfer of ownership in the Intellectual Property in any Documentation.
- 10.5 *No Infringement.* The Service Provider represents and warrants to the Principal that no Documentation deliverable to the Principal under the terms of this Agreement will infringe any existing Intellectual Property of any third party. In the event any of the representations or warranties contained in this Clause prove to be untrue or inaccurate, the Service Provider undertakes, at its own cost and expense, to defend and settle any claim raised by any third-party alleging infringement of Intellectual Property in the Documentation. The foregoing undertaking by the Service Provider shall apply subject to the following conditions:
- 10.5.1 the Principal shall notify the Service Provider, without undue delay, of any third-party claim alleging infringement of any Intellectual Property in any Documentation;
  - 10.5.2 the Principal refrains from admitting liability under any third-party claim or acting on the account of such claim without prior approval by the Service Provider; and
  - 10.5.3 the exclusive control over any legal proceeding or settlement related any third-party claim shall be exercised by the Service Provider; provided, however, that the Principal shall render the Services Provider all reasonable assistance toward such proceeding or settlement, at the cost and expense of the Service Provider.
- 10.6 *Infringement Proceedings.* In the event the Principal is a party to legal proceedings involving allegations of infringement of any Intellectual Property in the Documentation of any third party, the Service Provider shall keep the Principal fully informed of all aspects relevant to the legal proceedings and the Principal shall have the right, at its own cost, to be represented in the legal proceedings by separate counsel. In the event the Service Provider fails to act against claims alleging infringement of any Intellectual Property in the Documentation of any third party within reasonable time but, in any event, within twenty (20) days of having been notified of such claims, if possible according to the Applicable Laws, the Principal shall have the right to assume legal defence against claims alleging infringement of Intellectual Property and shall be entitled to reimbursement by the Service Provider of reasonable costs and expenses incurred toward such defence.
- 10.7 *Continued Use.* In the event a court of competent jurisdiction resolves in a binding judgment that the Documentation, or any part thereof, infringe Intellectual Property of any third party, the Service Provider shall, at its own cost and expense, procure for the Principal the right of continued use of the Documentation, or part thereof infringing Intellectual Property of a third party.
- 10.8 *Certain Rights of Service Provider.* The Service Provider after obtaining prior written approval from the Principal shall have the right to include photographic or artistic representations of the design of the Project among the Service Provider's promotional and professional materials.

## SECTION XI. CONFIDENTIALITY

- 11.1 *Confidential Information.* "Confidential Information" means in relation to the Principal all relating to the Principal and its affiliates which is supplied by the Principal (whether before or after the date of this Agreement) to the Service Provider or is available to the Service Provider during the implementation of the Agreement, either in writing, orally or in any other form and includes all analyses, compilations, notes, studies, memoranda and other documents which contain or otherwise reflect or are derived from such information, but excludes information which:



- 11.1.1 the Principal confirms in writing is not required to be treated as confidential; or
- 11.1.2 the Service Provider can show that the Confidential Information was in its possession or known to it (by being in its use or being recorded in its files or computers or other recording media) prior to receipt from the Principal and was not previously acquired by the Service Provider from the Principal under an obligation of confidence; or
- 11.1.3 was developed by or for the Service Provider at any time independently of this Agreement, without application of the information provided to the Service Provider under this Agreement.
- 11.2 *Undertakings with Respect to Confidential Information.* Subject to Clauses 11.1 and 11.3 of the Agreement, the Service Provider shall:
- 11.2.1 at all times keep confidential all Confidential Information received by it and shall not disclose such Confidential Information to any other Person; and
- 11.2.2 procure that its affiliates and its and their respective officers, employees and agents shall keep confidential and not disclose to any Person any Confidential Information, except with the prior written consent of the Party to which such Confidential Information relates.
- 11.3 *Permitted Disclosure.* Notwithstanding anything to the contrary set forth in accordance with Clauses 11.1 and 11.2 of the Agreement, the Service Provider shall, without the prior written consent of the Principal, be entitled to disclose Confidential Information:
- 11.3.1 that is reasonably required by the Service Provider in the performance of its obligations pursuant to this Agreement, including the disclosure of any Confidential Information to any employee, contractor, agent, officer, Sub-Contractor (of any tier) or adviser to the extent necessary to enable the Service Provider to perform its obligations under this Agreement;
- 11.3.2 to enable a determination to be made pursuant to **Section XV. On-the-spot visits**;
- 11.3.3 to its lenders or their professional advisers, any rating agencies, or its insurance advisers but only to the extent reasonably necessary to enable a decision to be taken on the proposal;
- 11.3.4 to the extent required by Applicable Law or pursuant to an order of any court of competent jurisdiction, any parliamentary obligation or the rules of any stock exchange or governmental or regulatory authority having the force of law; or
- 11.3.5 to the extent Confidential Information has become available to the public other than as a result of any breach of an obligation of confidence; provided that any such disclosure is made in good faith.
- 11.4 *Obligation of Confidentiality Pertinent to Recipients of Confidential Information.* Whenever disclosure is permitted to be made pursuant to Clause 11.3 of the Agreement, the Service Provider shall require that the recipient of Confidential Information be subject to the same obligation of confidentiality as that contained in this Agreement, if possible according to the Applicable Laws.
- 11.5 *Certain Obligations on Termination of Agreement.* If this Agreement is terminated for whatsoever reason, the Service Provider shall:
- 11.5.1 return to the Principal all of the Confidential Information that is within the possession or control of the Service Provider; or
- 11.5.2 destroy such Confidential Information using a secure and confidential method of destruction.
- 11.6 *No Press Release by Service Provider.* Save as required by Applicable Law, the Service Provider shall not issue any press release in relation to the matters contemplated under this Agreement without the prior written consent of the Principal (such consent not to be unreasonably withheld or delayed) as to both the content and the timing of the issue of the press release.
- 11.7 *Right to Publish.* For the avoidance of any doubt, the Principal shall have the right to publish any of the Documentation, information or data provided by the Service Provider to the Principal during provision of the Services.

## SECTION XII. DATA PRIVACY

- 11.8 For the purpose of implementation of the Agreement, the Parties will eventually transfer to each other certain personal data, such as data on employees, sub-contractors and other data subjects (names, surnames, e-mail

addresses, business addresses, phone numbers, a derivative of a personal identification document without disclosing special categories of personal data such as ethnicity, documents to support qualifications of the data subjects and other data relating to the implementation of the Agreement). The Party transferring to the other Party certain personal data shall be responsible for informing data subject about the personal data transfer and the fact that their data will be processed by other Party. In case it is needed, the Party transferring the personal data shall be responsible for obtaining the consent of the data subjects.

- 11.9 The Parties agree and acknowledge that for the purpose of the Agreement each of the Parties shall be viewed as independent controllers of personal data.
- 11.10 Besides other obligations provided for in the Agreement and the Applicable Laws, each of the Parties undertake:
- 11.10.1 To process the personal data to the minimum extent necessary;
  - 11.10.2 Not to infringe any rights of the data subjects;
  - 11.10.3 To implement and apply proper and necessary organizational and technical measures ensuring the compliance with the requirements of the Applicable Laws;
  - 11.10.4 To duly keep records of the personal data processing activities if such an obligation arises from the requirements of the Applicable Laws;
  - 11.10.5 To immediately notify the other Party if, in the opinion of the notifying Party, the actions of the other Party are likely to violate the requirements of the Applicable Laws governing the protection of personal data;
  - 11.10.6 To ensure the compliance with other requirements of the Applicable Laws governing the protection of personal data.
- 11.11 The Parties shall cooperate in every possible way and, if that is to be reasonably expected, assist each other in:
- 11.11.1 eliminating the violation of the personal data security as well as its negative consequences;
  - 11.11.2 proving that all necessary measures have been taken to prevent and correct the violation.
- 11.12 Each of the Parties shall be entitled to transfer personal data to third parties and/or to a third state or to international organization, including the transfer of personal data for the purpose of their processing, only in accordance with the procedure and conditions defined in the Applicable Laws.
- 11.13 Upon the disappearance of legal grounds to process personal data established in this Agreement, each of the Parties shall undertake to terminate the processing of personal data, unless it has a separate and independent right (arising outside the Agreement) to process the personal data.

### SECTION XIII. FORCE MAJEURE

- 11.14 *Effects of Force Majeure.* Subject to the requirements set forth in accordance with Clauses 11.15 and 11.16 of the Agreement, each Party shall be relieved from liability for non-performance of its obligations under this Agreement (other than any obligation to pay) to the extent that the Party is not able to perform such obligations due to a Force Majeure Event.
- 11.15 *Action Upon Becoming Aware of Force Majeure.* Each Party shall at all times, following the occurrence of a Force Majeure Event:
- 11.15.1 take reasonable steps to prevent and mitigate the consequences of such an event upon the performance of its obligations under this Agreement, resume performance of its obligations affected by the Force Majeure Event as soon as practicable and use reasonable endeavours in accordance with Good Industry Practice to remedy its failure to perform; and
  - 11.15.2 not be relieved from liability under this Agreement to the extent that it is not able to perform, or has not in fact performed, its obligations under this Agreement due to any failure to comply with its obligations under Clause 11.15.1 of the Agreement.
- 11.16 *Notification Requirements.* Upon the occurrence of a Force Majeure Event, the affected Party shall notify the other Party as soon as reasonably practicable and in any event within ten (10) Business Days of it becoming aware of the relevant Force Majeure Event. Such notification shall give sufficient details to identify the particular event claimed to be a Force Majeure Event and shall contain detailed information relating to the

failure to perform (or delay in performing), including the date of occurrence of the Force Majeure Event, the effect of the Force Majeure Event on the ability of the affected Party to perform, the action being taken in accordance with Clause 11.15 of the Agreement and an estimate of the period of time required to overcome the Force Majeure Event. The affected Party shall provide the other Party with any further information it receives or becomes aware of which relates to the Force Majeure Event and provide an update on the estimate of the period of time required to overcome its effects.

- 11.17 *Notification of Resumed Performance.* The affected Party shall notify the other Party as soon as practicable once the performance of its affected obligations can be resumed (performance to continue on the terms existing immediately prior to the occurrence of the Force Majeure Event).
- 11.18 *Mitigation of Effects of Force Majeure.* As soon as practicable after the notification specified pursuant to Clause 11.16 of the Agreement, the Parties shall use reasonable endeavours to agree appropriate terms or modifications to the Scope and payment terms to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Agreement.

#### SECTION XIV. RIGHT TO AUDIT

- 11.19 *Right to Audit.* Notwithstanding anything to the contrary set forth in this Agreement the Principal itself, a reputable outside independent body or expert engaged and authorised by the Principal or authority auditing the Principal shall be entitled to inspect and/or audit the Service Provider to ensure compliance with the terms of this Agreement, including inspecting and/or auditing:
- a. the performance of any aspect of the Services; and/or
  - b. any documentation, including all payrolls, accounts of the Service Provider and/or other records used in or related to the performance of the Services.
- 11.20 *Obligation to Assist.* The Service Provider shall provide all reasonable assistance to the Principal, or the independent body authorized by the Principal in carrying out any inspection or audit pursuant to this Section. The Principal shall be responsible for its own costs, or the costs incurred by the outside independent body designated by the Principal, incurred toward carrying out such inspection or audit, unless, in the case of any such audit, that audit reveals that the Service Provider is not compliant with the terms of this Agreement, in which case the Service Provider shall reimburse the Principal for all of its additional reasonable costs incurred, provided such non-compliance is material.
- 11.21 *Survival of Termination.* The rights and obligations of the Parties set forth in accordance with this Section shall survive expiration or termination of this Agreement for any reason and shall continue to apply during ten (10) years following expiration or termination of this Agreement for any reason whatsoever.
- 11.22 *Confidential nature.* Audit results, including information and documentation disclosed or made available to the Principal in the course of any such audit shall be deemed the Confidential Information and treated as such.

#### SECTION XV. ON-THE-SPOT VISITS

- 15.1 *Right to perform On-the-Spot visits.* By submitting a written notice five (5) Business Days in advance, but at the same time reserving the right of an unannounced on-the-spot visit without an advance notice, the Principal may carry out on-the-spot visits to the sites and premises where the activities implemented within the Agreement are or were carried out.
- 15.2 *Personnel involved.* On-the-spot visits may be carried out either directly by authorised staff or representatives of the Principal or by any other outside body or third party authorised to do so on behalf of the Principal. Information provided and collected in the framework of on-the-spot visits shall be treated on confidential basis. The Principal shall ensure that any authorised outside body or third party shall be bound by the same confidentiality obligations.
- 15.3 *Access to the information.* Service Provider shall provide to the performer of the on-the-spot visit or any other authorised outside body or third party access to all the information and documents, including information and documents in electronic format, which is requested by the authorised staff of the performer of the on-the-spot visit or any other authorised outside body or third party for the performance of an on-the-spot visit and which relates to the implementation of the Agreement, as well as shall allow the authorised staff of the performer of the on-the-spot visit or any other authorised outside body or third party the copying of the information and documents, with due respect to the confidentiality obligation.

- 15.4 *Checks and inspections.* By virtue of "Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities", "Regulation (EU, Euratom) No 883/2013 of the European Parliament and the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999" and other legislation and documentation relating to European Union grant awarding and subsequent monitoring processes, the European Commission; the European Anti-Fraud Office; the European Climate, Infrastructure and Environment Executive Agency; the European Court of Auditors and other European Union institutions and bodies might perform checks, reviews, audits and investigations towards the Service Provider in case such activities are related to the use of grants awarded.

## SECTION XVI. NOTICES AND COMMUNICATION

- 16.1 *Notices.* All notices and other communications made or required to be given pursuant to this Agreement shall be in writing and shall be deemed given if delivered personally or sent by an e-mail, or delivered by overnight courier service, or mailed by registered or certified mail (return receipt requested), postage prepaid, to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):
- 16.1.1 to the Principal: RB Rail AS  
Satekles iela 2B,  
Rīga, LV-1050  
info@railbaltica.org
- 16.1.2 to the Service Provider: [●]
- 16.2 *Changes in Address.* Either Party shall be entitled to change its address for purposes of this Section by notice to the other Party. A notice of a change of address shall be effective only upon receipt thereof.
- 16.3 *Communication.* Communication between the Parties during the implementation of the Agreement shall primarily be done electronically. Furthermore, the Principal shall establish and maintain a dedicated online sharing folder where the Parties shall exchange any Documentation. Except where notices are sent by post or courier service, in cases where the Service Provider is required to contact the Principal, the Service Provider will only communicate with the Representative of the Principal listed in **ANNEX F: REPRESENTATIVES**, unless otherwise expressly stated by the Representative of the Principal ().

## SECTION XVII. LIABILITY

- 17.1 *Liability of the Parties.* The Service Provider shall be liable to compensate Damages incurred to the Principal arising out of or in connection with this Agreement and pay contractual penalty set forth in accordance with Clause 17.2 of the Agreement if a breach of any of the obligations of the Service Provider under this Agreement is established against the Service Provider. The Principal shall be liable to pay the contractual penalty set forth in accordance with Clause 17.2 of the Agreement if a breach of payment obligations of the Principal under this Agreement is established against the Principal.
- 17.2 *Contractual Penalty.* The Parties agree that the following contractual penalties may be applied:
- 17.2.1 In the event of failure by the Service Provider to provide the Services in compliance with the terms of the Agreement, the Principal shall be entitled to claim from the Service Provider a penalty in the amount of one percent (1%) of the Fee payable for respective Services for each day of delay starting from the first delayed day, however, that the total amount of the penalty payable by the Service Provider under this Clause shall not exceed ten percent (10%) of the Fee payable for the respective Services;
- 17.2.2 In the event of failure by the Principal to pay any amount in accordance with the Clause 8.1 of the Agreement, the Service Provider shall be entitled to claim from the Principal a penalty of one percent (1%) of the delayed amount for each day of delay with meeting the payment obligation, provided, however that the total amount of penalty payable by the Principal under this Clause shall not exceed ten percent (10%) of the delayed amount.
- 17.3 *Freedom of application of a contractual penalty.* For avoidance of doubt the application of the contractual penalty under this Agreement in each particular case shall be the sole discretion of the entitled Party taking into account material consequences of the infringement. The entitled Party may apply the contractual penalty

at any time until the date of expiry or termination of the Agreement by providing to the breaching Party a written notice. If the penalty is not deducted from amounts payable, the breaching Party shall pay the contractual penalty within a time period of sixty (60) days following the date on which the breaching Party received the notice.

- 17.4 *Compensation for Damages.* Notwithstanding of and without prejudice to any contractual penalty payable in accordance with Clause 17.2 and subject to the provisions of Clause 17.6, in the event it is established that either Party is liable to the other Party with respect to any breach of its respective obligations under this Agreement, the liable Party shall compensate the other Party for any Damages incurred as a result of such breach, subject to the following terms:
- 17.4.1 the amount of compensation shall be limited to the amount of reasonably foreseeable Damages suffered as a result of the breach(es), but not otherwise;
- 17.4.2 if either Party is considered to be liable jointly with third parties to the other, the proportion of compensation payable by the liable Party shall be limited to that proportion of liability which is attributable to the breach by the liable Party.
- 17.5 *Attribution of Damages.* Any Damages suffered by either Party shall, for the purposes of Clause 17.4 of the Agreement, be reduced to the extent that the Damages are caused by or contributed to by the other Party's own negligence or breach of its obligations under this Agreement.
- 17.6 *Limitation of Liability.* Notwithstanding anything to the contrary set forth in this Agreement, in no circumstances shall the Service Provider or Principal be liable to one another for any loss of production, loss of profit, loss of revenue, loss of contract, liability incurred under other agreements (with the exception of costs paid by the Principal to contractors appointed by the Principal in relation to the provision of the Services in the event of failure by the Service Provider to fulfil its obligations under the Agreement) or any indirect or consequential loss arising out of or in connection with this Agreement.

#### SECTION XVIII. GOVERNING LAW AND RESOLUTION OF DISPUTES

- 18.1 *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the Republic of Latvia.
- 18.2 *Resolution by Amicable Means.* The Parties shall first attempt to settle any dispute, controversy or claim arising out of or relating to this Agreement by way of amicable negotiations prior to submitting them to mediation, arbitration, or other legal proceeding.
- 18.3 *Venue for Resolution of Disputes.* If the Parties fail to settle dispute, controversy or claim etc. within 2 (two) months by amicable negotiations, then any dispute, controversy or claim arising from this Agreement shall be finally resolved by courts of general jurisdiction of the Republic of Latvia.
- 18.4 *Language.* The Parties hereby represent and warrant that the English language is understandable for both Parties in accordance with Article 8(1)(a) of the Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000.

#### SECTION XIX. MISCELLANEOUS PROVISIONS

- 19.1 *Capacity.* Each Party warrants to the other Party that it has full power to enter into and perform this Agreement, and the Person signing this Agreement on its behalf has been duly authorized and empowered to enter into such agreement. Each Party further acknowledges that it has read this Agreement, understands it and agrees to be bound by it.
- 19.2 *Severability.* If any provision of this Agreement shall be held to be illegal, invalid, void or unenforceable under Applicable Laws, the legality, validity and enforceability of the remainder of this Agreement shall not be affected, and the legality, validity and enforceability of the whole of this Agreement shall not be affected.
- 19.3 *Relationship of the Parties.* The relationship between the Service Provider to the Principal under this Agreement is that of independent contractors. The Service Provider (or the Service Provider's sub-contractors) is not an employee of the Principal, is not carrying out the regular business of the Principal and is not subject to the same employment regulations as are applicable to employees of the Principal. Each of the Parties shall be solely and entirely responsible for their own acts and the acts of their employees. No benefits, special

considerations, or employer/employee-type provisions are provided by the Principal to the Service Provider, the Service Provider's employees, or the Service Provider's consultants, or the employees of such consultants.

- 19.4 *Successors and Assigns.* The Principal and the Service Provider each bind themselves, their successors, legal representatives, and assigns to the other party to this Agreement and to the partners, successors, legal representatives and assigns of such other party in respect to all covenants of this Agreement. Neither Party shall assign or transfer its respective interest in the Agreement without written consent of the other Party.
- 19.5 *Conflict of Interest, Corruption and Fraud.* Notwithstanding any penalties that may be enforced against the Service Provider under the Applicable Laws, or the laws of other jurisdiction(s), the Service Provider shall be deemed to have committed a material breach under this Agreement and the Principal shall be entitled to terminate this Agreement immediately if it is shown that the Service Provider is guilty of:
- 19.5.1 offering, giving, receiving or soliciting anything of value with a view to influencing the behaviour or action of anyone, whether a public official or otherwise, directly or indirectly in the selection process or in the conduct of the Agreement; or
- 19.5.2 misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Principal, including the use of collusive practices intended to stifle or reduce the benefits of free and open competition.
- 19.6 *Entire Agreement.* This Agreement, and the Annexes hereto, constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes and extinguishes all and any prior drafts, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.
- 19.7 *Amendments and Variations.* No amendment to or Variation of this Agreement shall be effective unless made in writing and signed (with original (wet ink) signature or a qualified electronic signature) by duly authorized representatives of both Parties, if not provided otherwise herein. The Agreement can be amended in compliance with the provisions of the Public Procurement Law of the Republic of Latvia.
- 19.8 *Execution.* This Agreement is executed [in 2 (two) copies, one for each Party, both having the same legal effect OR as an electronic document].

Signed by:

**For and on behalf of the Principal**

**For and on behalf of the Service Provider**

RB Rail AS

[●];

Registration No 40103845025

Legal address: Satekles iela 2B, Rīga, LV-1050

Email: [info@railbaltica.org](mailto:info@railbaltica.org)

[●];

[●];

\_\_\_\_\_

\_\_\_\_\_

[THIS DOCUMENT IS SIGNED ELECTRONICALLY WITH A QUALIFIED ELECTRONIC SIGNATURE AND CONTAINS  
TIME SEAL]

## ANNEX A: DEFINITIONS AND COMMON TERMS

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

- (a) **“Agreement”**, this Agreement together with all Annexes thereto.
- (b) **“Applicable Law”** or **“Law”**, any legislative act, regulation, decree, order, ordinance, statute, treaty, directive, judgment, or other legislative measure applicable to the Agreement, the Services, the Parties, etc. For the avoidance of any doubt, the term **“Applicable Law”** shall include any legislative act or directive relevant to public procurement.
- (c) **“Approved Sub-Contractor”**, any Person or organisation which is in a contractual relationship with the Service Provider to provide a part of the Services and is subject to specific requirements identified in the Regulations. All Approved Sub-Contractors shall be listed in **Annex E: List of Approved Sub-Contractors and Approved Staff**.
- (d) **“Approved Staff”** - means any of the project managers which: (a) is in a contractual relationship with the Service Provider; and (b) shall be involved in the provision of the Services; and (c) is subject to specific requirements identified in Clause 8.4.4. of the Regulations. All Approved Staff shall be listed in **Annex E: List of Approved Sub-Contractors and Approved Staff**.
- (e) **“Assignment”** – means the specific instance of Services that are requested by the Principal in accordance with the Clause 7.2 of the Agreement and which shall be implemented by the Service Provider in accordance with the terms of the Agreement.
- (f) **“Candidate”**, a natural person whose compliance with qualification requirements defined by the Parties within the scope of the Assignment has been established by the Service Provider and who has applied its candidacy for consideration for the respective vacancy within the scope of the Services.
- (g) **“CEE”** as defined in the Preamble of the Agreement.
- (h) **“Completion Dates”**, reference dates which are determined in accordance with Clause 8.1.1 of the Agreement and that serve as milestones for the Service Provider to claim payment of the Fee.
- (i) **“Confidential Information”**, as defined in accordance with Section XI. **Confidentiality** of the Agreement.
- (j) **“Costs”**, direct costs reasonably incurred by the Service Provider in relation to the provision of the Services, namely Costs within the scope of the Agreement shall include any of the following:
  - (i) costs of all materials and supplies forming part of the Services, including transportation and storage expenses (discounts for cash or prompt payments will not reduce these costs);
  - (ii) salaries for personnel in the direct employ of the Service Provider in the performance of the Services or relating to the Services;
  - (iii) salaries of the Service Provider’s employees for the time that they spend in connection with the Service;
  - (iv) payments to Sub-Contractors for Work relating to the Services;
  - (v) costs of all employee benefits and taxes for items such as social security and other benefits for the labour and employees;
  - (vi) costs, including transportation and maintenance, of equipment and hand tools not owned by workmen employed by the Service Provider which are employed or consumed toward the Services;
  - (vii) payments for rental charges for machinery, equipment, facilities and tools used in connection with the Services, and payments for installations, repairs, replacements, dismantling, removal, lubrication, transportation and delivery of those rental items;
  - (viii) other transportation costs incurred in connection with the Services;
  - (ix) that portion attributable to this Agreement of premiums for insurance that is required by this Agreement or by law to be obtained or maintained by the Service Provider;

- (x) sales, use, gross receipts or other taxes related to the Services, imposed by any governmental authority, to the extent that the Service Provider is responsible for such taxes;
- (xi) costs of long-distance telephone calls, telephone service at the site and postage relating to the Services;
- (xii) losses and expenses, not compensated by insurance, sustained by the Service Provider in connection with the Works under this Agreement, provided they resulted from causes other than the fault or neglect of the Service Provider.
- (k) “Damages”, any deprivation which can be assessed financially, i.e., direct cost, claim, damage, demand, loss, expense or liability incurred by the relevant Party or Person.
- (l) “Defect” means any error, fault, omission, defect or other non-compliance of the Deliverable, Works or the Services with the requirements of the Agreement.
- (m) “Deliverable”, any kind of resources, information, notes, material, computer files, documents and/or other items which the Service Provider is required to deliver to the Principal as part of the Services, as further specified pursuant to **Annex B: Technical Specification**.
- (n) “Documentation”, all records, correspondence, computer files etc. of the Service Provider, its employees, engineers, and consultants pertaining to the Services.
- (o) “Effective Date”, as specified in the Preamble to this Agreement.
- (p) “Employment Contract” means employment agreement, authorisation agreement or other contract of a similar nature that is signed between the Principal and the Candidate.
- (q) “EUR” and “euro”, the official currency of the eurozone, officially known as the euro area.
- (r) “Fee”, as specified in Clause 8.1 of the Agreement.
- (s) “Final Acceptance Date”, as defined in Clause 7.9 of the Agreement.
- (t) “Final Acceptance Note”, as described in Clause 7.9 of the Agreement.
- (u) “Force Majeure Event”, any of the following events:
  - a. It is an event that cannot be avoided and whose consequences cannot be overcome;
  - b. It could not be foreseen at the time when the Agreement was concluded;
  - c. It was not caused by the act of the affected Party or a person under its control;
  - d. It makes it impossible to fulfil the obligation arising from the Agreement.

For example, these events could be considered as Force Majeure Events if they meet the criteria defined above (this list is not exhaustive):

  - a. an act of the public enemy or war (declared or undeclared), threat of war, revolution, riot, insurrection, civil commotion, demonstration or sabotage;
  - b. an act of vandalism or accidental damage or destruction of machinery, equipment, track or other infrastructure;
  - c. a natural disaster or phenomena, including extreme weather or environmental conditions (such as lightning, earthquake, hurricane, storm, fire, flood, drought or accumulation of snow or ice);
  - d. nuclear, chemical or biological contamination;
  - e. pressure waves caused by devices travelling at supersonic speeds;
  - f. discovery of fossils, antiquities or unexploded bombs; and/or
  - g. strike, lockout or other industrial action other than involving the Service Provider or the Principal.
- (cc) “Good Industry Practice”, in relation to the performance of any activity to which this standard is applied, the exercise of that degree of skill, diligence, prudence and foresight as would reasonably be expected to be exercised by a properly qualified and competent Person engaged in carrying out



Works or services of a similar size, nature, scope, type and complexity, complying with Applicable Law, applicable standards and published codes of practice.

- (ee) “Intellectual Property”, all intellectual property rights in any part of the world in respect of any documentation, or information provided by the Service Provider to the Principal, including any patent, patent application, trademark, trademark application, utility model, trade name discovery, invention, process, formula, specification, copyright (including all neighbouring rights, rights in computer software and database and topography rights), know-how or unregistered design right.
- (ff) “Milestone”, the date of delivery of one or more Deliverables as a part of the Assignment in compliance with the terms of the Agreement which is determined in accordance with **Annex B: Technical Specification** and any other term referred to in the Agreement relating to the provision of the Services which either party is required to comply with.
- (gg) “Party” and “Parties”, the Principal and the Service Provider and include the respective successors in title, permitted assigns and permitted transferees.
- (hh) “Person” shall include any natural person, company, body corporate, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) or two or more of the foregoing.
- (ii) “Position level” the level of the Candidate's qualification requirements, the descriptions of which are given in Clause 3.1. of the **ANNEX B: TECHNICAL SPECIFICATION**.
- (jj) “Procurement Procedure” as defined in the Preamble of the Agreement.
- (kk) “Principal” as defined in the above list of the parties to the Agreement.
- (ll) “Project” as defined in the Preamble of the Agreement.
- (mm) “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.
- (nn) “Recruitment Log” as defined in accordance with Clause 7.2 of the Agreement.
- (oo) “Regulations” means the documents governing the preparation and submission of proposals under the Procurement Procedure.
- (pp) “Representatives” as defined in accordance with Clause 5.2 of the Agreement.
- (qq) “Right of Partial Acceptance”, as defined in accordance with Clause 9.7 of the Agreement.
- (rr) “Scope” the scope of Services to be provided by the Service Provider in compliance with the Agreement as further identified under **Annex B: Technical Specification** of the Agreement.
- (ss) “Service Provider”, as defined in the above list of the parties to the Agreement.
- (tt) “Services”, recruitment services to be provided by the Service Provider to the Principal in compliance with the Scope and this Agreement.
- (uu) “Service Provider's Proposal”, as specified in accordance with the preamble of this Agreement, i.e., information relating to the performance of the Services that was submitted by the Service Provider in order to fulfil the requirements of the Procurement Procedure and become the winner of the Procurement Procedure.
- (vv) “Total Value”, as defined in Clause 2.2 of the Agreement.
- (ww) “Vacancy Specification Meeting” as defined in Clause 7.2 of the Agreement.
- (xx) “VAT” means Value Added Tax.
- (yy) “Works” means all works, steps and actions, performed by the Service Provider under this Agreement for the attainment of the objectives of the Service in accordance with **Annex B: Technical Specification, Annex C: Technical proposal and Annex D: Financial Proposal**.
- (zz) “Working Day”, any day (other than Saturday or Sunday) on which banks in the Republic of Latvia are open for conduct of business.

**ANNEX B: TECHNICAL SPECIFICATION**

**ANNEX C: TECHNICAL PROPOSAL**

**ANNEX D: FINANCIAL PROPOSAL**

**ANNEX E: LIST OF APPROVED SUB-CONTRACTORS AND APPROVED STAFF****Project Manager in Estonia:**

[name, surname, position]
Business address: [●]
Mobile phone: [●]
E-mail: [●]

**Project Manager in Latvia:**

[name, surname, position]
Business address: [●]
Mobile phone: [●]
E-mail: [●]

**Project Manager in Lithuania:**

[name, surname, position]
Business address: [●]
Mobile phone: [●]
E-mail: [●]

**ANNEX F: REPRESENTATIVES****Representatives of the Principal:**

[name, surname, position]
Business address: [●]
Mobile phone: [●]
E-mail: [●]

**Representatives of the Service Provider:**

[name, surname, position]
Business address: [●]
Mobile phone: [●]
E-mail: [●]

**ANNEX G: FINAL ACCEPTANCE NOTE**

Date: [INSERT DATE IN THE FORM OF 1 January 2024]

Location: [INSERT LOCATION]

For: [●] (the “Service Provider”)

This Final Acceptance Note (the “Final Acceptance Note”) is issued to the Service Provider by RB Rail AS, registration number 40103845025, legal address Satekles iela 2B, Riga, LV-1050 (the “Principal”), represented by [INSERT NAME OF REPRESENTATIVE ON THE BASIS OF INSERT BASIS OF REPRESENTATION].

In this Final Acceptance Note, unless the context requires otherwise, all Definitions shall have the meaning ascribed to such terms in accordance with the AGREEMENT ON RECRUITMENT SERVICES IN BALTIC STATES (Latvia, Lithuani, Estonia) [INSERT AGREEMENT NUMBER] dated [INSERT DATE] (the “Agreement”) and **Annex A: Definitions and Common Terms** of the Agreement.

Whereas:

- (A) the Principal and the Service Provider have entered into the Agreement;
- (B) all of the Assignments issued to the Service Provider within the scope of the Agreement have been duly completed;
- (C) as stipulated by Clause 7.9 of the Agreement, final acceptance shall be evidenced by means of the both Parties signing the Final Acceptance Note substantially in the form of (the “Final Acceptance Note”);

The Principal is satisfied with the result of the provided Services and/or all Assignments completed and submitted, and the Principal accepts the provided Services in their entirety.

The Service Provider and the Principal confirm at the moment of signing this Final Acceptance Note that they do not have any material or other claims in connection with the Agreement (incl. but not limited to additional claims for Fee, contracting penalties, compensation of Costs, claims related to intellectual property, etc.).

In the event of conflict between the text in this Final Acceptance Note and the Agreement, the Agreement shall take precedence.

On the date on which this Final Acceptance Note is signed by the Parties, the following annexes are attached:

- 1) Annex No 1 “Recruitment Log”.
- 2) [●]

Signatures:

**For and on behalf of the Principal**

[●]

**For and on behalf of the Service Provider**

[●]

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