

PROCUREMENT

REGULATIONS

"Directors and Officers liability insurance"

(IDENTIFICATION NO RBR 2018/5)



Co-financed by the European Union
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1. GENERAL INFORMATION

- 1.1. The identification number of this procurement is No RBR 2018/5.
- 1.2. The applicable CPV code: 66516000-0 (Liability insurance services), sub-codes: 66516400-4 (General liability insurance services), 66516500-5 (Professional liability insurance services).
- 1.3. The contracting entity is joint stock company RB Rail AS, legal address: K. Valdemara Street 8 - 7, Riga, LV-1010, Latvia (hereinafter – Contracting authority).
- 1.4. This procurement is organised in accordance with Section 9 of the Public Procurement Law of Latvia in effect on the date of publishing the Contract notice. The estimated service contract price is higher or equal 10 000 EUR, but lower than 42 000 EUR.
- 1.5. The procurement regulation and all its annexes are freely available at the Internet webpage of the Contracting authority <http://www.railbaltica.org/tenders/>.
- 1.6. Amendments to the procurement regulation and answers to Contractors' questions shall be published on the Contracting authority's Internet webpage <http://www.railbaltica.org/tenders/>. It is the Contractor's responsibility to constantly follow the information published on the webpage and to take it into consideration in its proposal.
- 1.7. Contact persons of the Contracting authority for this procurement:
 - (a) In administrative aspects of the procurement: Lead Procurement specialist Mārtiņš Blaus, telephone: +371 28118533, e-mail address: martins.blaus@railbaltica.org and procurement@railbaltica.org;
 - (b) In aspects concerning subject-matter of Procurement: General Counsel, Ģirts Rūda, telephone +371 29494480, e-mail address: girts.ruda@railbaltica.org.
- 1.8. The procurement commission and the Interested supplier exchange information in writing in English, by sending documents by post, electronically or by delivering in person.
- 1.9. The Interested supplier can request additional information regarding the Regulation. Additional information can be requested in writing, by sending it to the procurement commission by post or electronically to e-mail address procurement@railbaltica.org, or delivering in person. Additional information must be requested in a timely fashion, so that the procurement commission can give it a reply no later than 4 (four) days prior to the deadline for proposal submission. The procurement commission shall provide additional information within 3 (three) business days from the day of receipt of the request.
- 1.10. The Interested supplier covers all expenses, which are related to the preparation of the Proposal and its submission to the Contracting authority. The submitted proposals are not returned to the Interested supplier, unless specifically envisaged in the Regulations.

2. THE RIGHTS OF THE PROCUREMENT COMMISSION

- 2.1. The procurement commission has the right to demand at any stage of the procurement that the Tenderer submits all or part of the documents which certify Tenderer's compliance to the requirements for the selection of tenderers. The procurement commission does not demand such documents or information which is already at its disposal or is available in public data bases.
- 2.2. If the Tenderer submits document derivatives (e.g. copies), then in case of doubt about the authenticity of the submitted document derivation the procurement commission can demand that the Tenderer shows the original documents.
- 2.3. In the course of proposal assessment the procurement commission has the right to demand that the information included in the proposal is clarified.

3. THE OBLIGATIONS OF THE PROCUREMENT COMMISSION

- 3.1. The procurement commission ensures the documentation of the process of the procurement procedure.
- 3.2. The procurement commission ensures free and direct electronic access to the procurement procedure documents at the Internet webpage of the Joint-Stock Contracting authority RB Rail AS <http://www.railbaltica.org/tenders/>.
- 3.3. If an interested Tenderer has in a timely fashion in writing by post or electronically, or delivering in person, requested additional information about the requirements included in procurement procedure documents regarding the preparation and submission of the Proposal or regarding the selection of Tenderers, the procurement commission provides a response electronically within 3 (three) business days, but not later than 4 (four) days before the deadline for submitting proposals. Simultaneously with sending this information to the Interested supplier who had asked the question, the Contracting authority publishes this information on its Internet webpage <http://www.railbaltica.org/tenders/> where procurement procedure documents are available, indicating the question asked.
- 3.4. If the Contracting authority has amended the procurement procedure documents, it publishes this information on the Contracting authority's Internet webpage <http://www.railbaltica.org/tenders/> where procurement procedure documents are available.
- 3.5. The exchange and storage of information is carried out in such a way that all data included in the Proposals is protected and the Contracting authority can check the content of the Proposals only after the expiration of the deadline for their submission. In time between the day of the submission of Proposals till the moment of opening thereof the Contracting authority does not disclose information regarding the existence of other Proposals. In the time period of Proposal assessment till the moment of the announcement of the results the Contracting authority does not disclose information regarding the assessment process.

- 3.6. The procurement commission assesses the Tenderers and their submitted Proposals based on the Public Procurement Law, procurement procedure documents, as well as other regulatory enactments.
- 3.7. If the procurement commission determines that the information about the Tenderer, its subcontractors and persons upon whose capabilities the Tenderer is relying that is included in the submitted documents is unclear or incomplete, it demands that the Tenderer or a competent institution clarifies or expands the information included in the Proposal. The deadline for submission of the necessary information is determined in proportion to the time which is required in order to prepare and submit such information. If the procurement commission has demanded to clarify or expand upon the submitted documents, but the Tenderer has not done this in accordance with the requirements stipulated by the procurement commission, the procurement commission is under no obligation to repeatedly demand that the information included in these documents be clarified or expanded upon.

4. THE RIGHTS AND OBLIGATIONS OF THE TENDERER

- 4.1. The rights of the Tenderer:
 - 4.1.1. The Tenderer can request and within 3 (three) business days after submitting the request receive a copy of the Proposal opening sheet, which is an Annex to the Proposal opening meeting minutes;
 - 4.1.2. If the Contracting authority gets the necessary information about the Tenderer directly from a competent institution, through data bases or other sources, the Tenderer in question has the right to submit a statement or a different document regarding the corresponding fact, if the information obtained by the Contracting authority does not conform to the factual situation;
 - 4.1.3. If a Tenderer believes that its rights have been violated or such violation is possible due to possible violation of the regulatory enactments of the European Union or other regulatory enactments, the Tenderer has the right to submit a complaint to the Administrative court according to the procedure stipulated in the Public Procurement Law and Administrative Procedure Law regarding the Tenderer selection requirements, technical specifications or other requirements relating to this procurement, or relating to the activities by the Contracting authority or the procurement commission during the procurement procedure.
- 4.2. The obligations of the Tenderer:
 - 4.2.1. to prepare the Proposal in accordance with the requirements of the Regulations;
 - 4.2.2. to provide true and accurate information about its qualification and the Proposal;
 - 4.2.3. to provide answers to the inquiries of the Procurement Commission regarding additional information that is necessary for the selection of the Tenderers, within the time limits specified by the Procurement Commission;
 - 4.2.4. to cover all costs that are related to the preparation and submission of the Proposal;

- 4.2.5. until the end of the deadline for submission of the Proposal, to follow the information about the process of the procurement on the webpage of the Contacting authority <http://www.railbaltica.org/tenders/> taking into account the fact that the Contacting authority ensures free and direct electronic access to the documents of the procurement.

5. SUBJECT-MATTER OF THE PROCUREMENT

- 5.1. The subject-matter of the procurement is directors and officers liability insurance. Detailed information is provided in Annex 4 (Technical specification).
- 5.2. The directors and officers liability insurance services will be provided in Latvia, Lithuania, Estonia.
- 5.3. The Tenderer can submit proposal for the entire volume of the procurement.
- 5.4. The Tenderer is not permitted to submit variants of the Proposal. If variants of the Proposal shall be submitted, the Proposal will not be reviewed.

6. TENDERER

- 6.1. The proposal can be submitted by:
- 6.1.1. A Supplier, who is a legal or natural person (hereinafter – Tenderer) and who complies with the selection criteria for Tenderers;
- 6.1.2. A group of Suppliers (hereinafter also – Tenderer, partnership) which complies with the selection criteria for Tenderers:
- (a) a group of Suppliers who have formed a partnership for this particular procurement. In this case all the members of the partnership shall be listed in Annex 1 "Application". If it will be decided to award contracting rights to such partnership, then prior to concluding the Contract, the partnership shall at its discretion either enter into a partnership agreement (within the meaning of Latvian Civil Law Sections 2241-2280) and shall submit one copy of this agreement to the Contracting authority or establish a general or limited partnership (within the meaning of Latvian Commercial Law, Chapter IX and X) and notify the Contracting authority in writing;
 - (b) an established and registered partnership (a general partnership or a limited partnership, within the meaning of Latvian Commercial Law, Chapter IX and X) (hereinafter also – Tenderer) which complies with the selection criteria for tenderers.

7. SELECTION CRITERIA FOR TENDERERS

- 7.1. Exclusion grounds

The Contracting authority shall exclude the Tenderer from further participation in the procurement in any of the following circumstances:

No	Requirement	Documents to be submitted (<i>no obligation to submit documents, unless specifically requested by the procurement commission</i>)
1.	Tenderer's insolvency proceedings have been announced, the Tenderer's business activities have been suspended, the tenderer is under liquidation.	<ul style="list-style-type: none"> - For the Tenderer, which is registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases. - For the Tenderer, which is registered or residing outside of Latvia the Tenderer should submit an appropriate statement from the competent authority of the country of registration or residence of non existence of such cases of exclusion.
2.	It has been detected that on the last day of Proposal submission term or on the day when a decision has been made on possible granting of rights to conclude the procurement contract, the Tenderer has tax debts in Latvia or a country where it has been incorporated or is permanently residing, including debts of mandatory state social insurance contributions exceeding 150 euro in total in any of the countries.	<ul style="list-style-type: none"> - For the Tenderer, which is registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases. - For the Tenderer, which is registered or residing outside of Latvia the Tenderer should submit an appropriate statement from the competent authority of the country of registration or residence of non existence of such cases of exclusion.
3.	A person who drafted the procurement procedure documents (Contracting authority's official or employee), procurement commission member or expert is related to the tenderer, or is interested in selection of some tenderer, and the Contracting authority cannot prevent this situation by measures that cause less restrictions on tenderers. A person who drafted the procurement procedure documents (Contracting authority's official or employee), procurement commission member or expert is presumed to be related to the tenderer in any of the following cases:	<ul style="list-style-type: none"> - No obligation to submit documents, unless specifically requested by the procurement commission.

No	Requirement	Documents to be submitted (<i>no obligation to submit documents, unless specifically requested by the procurement commission</i>)
	<ul style="list-style-type: none"> - If he or she is a current or and ex-employee, official, shareholder, procura holder or member of a tenderer or a subcontractor which are legal persons and if such relationship with the legal person terminated within the last 24 months. - If he or she is the father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-brother, half-sister or spouse (hereinafter – relative) of a Tenderer's or subcontractor's, which is a legal person, shareholder who owns at least 10% of the shares in a joint-stock Contracting authority, shareholder in a limited liability Contracting authority, procure holder or an official. - If he or she is a relative of a tenderer or a subcontractor which is a natural person. <p>If the tenderer is a partnership, consisting of natural or legal persons, a relation to the tenderer is presumed also if a person who drafted the procurement procedure documents (Contracting authority's official or employee), procurement commission member or expert is related to a member of a partnership in any of the above mentioned ways.</p>	
4.	<p>The Tenderer's specified person on which possibilities the Tenderer relies in order to demonstrate that it meets the qualification requirements set out in the notice of the Contract or the procurement Regulation, as well as to the members of the partnership, if the applicant is a partnership, are applicable</p>	<ul style="list-style-type: none"> - The rules for the document submission are set in the sections 1, 2 and 3, if applicable.

No	Requirement	Documents to be submitted (<i>no obligation to submit documents, unless specifically requested by the procurement commission</i>)
	rules set in the requirements mentioned above, that is, sections 1, 2 and 3 of this table.	

7.2. Legal standing and suitability to pursue the professional activity

No	Requirement	Documents to be submitted
1.	The Tenderer or all members of the partnership (if the Tenderer is a partnership) must be registered in the Registry of Enterprises or Registry of Inhabitants, or an equivalent register in their country of residence, if the legislation of the respective country requires registration of natural or legal persons.	<ul style="list-style-type: none"> - For a Tenderer which is a legal person (or a member of a partnership, a person on whose abilities a Tenderer relies) registered in Latvia the Contracting authority shall verify the information itself in publicly available databases. - For a Tenderer which is a natural person (or a member of a partnership, a person on whose abilities a Tenderer relies) – a copy of an identification card or passport. - For a Tenderer (or a member of a partnership, a person on whose abilities a Tenderer relies) which is a legal person registered abroad (with its permanent place of residence abroad) – a copy of a valid registration certificate or a similar document issued by a foreign authority in charge of the registration of legal persons in the country of their residence wherefrom at least the fact of registration, shareholders, officials and procura holders (if any) can be determined. - If a proposal is submitted by a partnership, the Proposal shall include an agreement (or letter of intention to enter into agreement) signed by all members on the participation in the procurement, which lists responsibilities of each and every partnership members and a joint commitment to fulfil the procurement

No	Requirement	Documents to be submitted
		<p>contract, and which authorises one key member to sign the proposal and other documents, to receive and issue orders on behalf of the partnership members, and with whom all payments will be made.</p> <ul style="list-style-type: none"> - If the Proposal or any other document, including any agreement, is not signed by the legal representative of the Tenderer, members of the partnership, person on whose capabilities the Tenderer relies or sub-contractors, then a document certifying the rights of the persons who have signed the Proposal or any other documents, to represent the Tenderer, a member of the partnership, a person on whose capabilities the Tenderer is relying, or a sub-contractor (powers of attorney, authorization agreements etc.) must be included.
2.	The representative of the Tenderer who has signed the proposal documents has the right of signature, i.e., it is an official having the right of signature or a person authorized by the Tenderer.	<ul style="list-style-type: none"> - the document confirming the right of signature (representation) of the representative of the Tenderer who signs the proposal. If the Tenderer submits a power of attorney (original or a copy certified by the Tenderer) there shall be additionally submitted document confirming that the issuer of the power of attorney has the right of signature (representation) of the Tenderer.

7.3. Professional ability

No	Requirement	Documents to be submitted
1.	Candidate has delivered at least 3 (three) civil liability insurance policies in the period of the last 3 (three) years where at least 1 (one) policy was delivered with a limit of liability of 10 mil. EUR or more;	- Information about applicants experience (Annex No 2) in delivering at least 3 (three) civil liability insurance policies in the period of the last 3 (three) years, where at least 1 (one) civil liability insurance policy delivered with a liability limit 10 mil. EUR or more;
2.	Insurance company has been evaluated by the international credit rating agency with a rating (Financial Strength rating) in investment category (i.e. Standard & Poors rating from AAA to BBB – including) or no less than 100% of the insured risk is located internationally recognized and proven insurance / reinsurance companies with international credit rating agency credit ratings (Financial Strength Rating) in investment category (i.e. Standard & Poors rating from AAA to BBB – including);	- Candidates statement that the insurance company has been evaluated by the international credit rating agency with a rating (Financial Strength Rating) in investment category (i.e. Standard & Poors rating from AAA to BBB – including) or no less than 100% of the insured risk is located internationally recognized and proven insurance / reinsurance companies with international credit rating agency credit ratings (Financial Strength Rating) in investment category (i.e. Standard & Poors rating from AAA to BBB – including);
3.	Insurance broker who represents an insurance company (if applicable), has to be registered as insurance and reinsurance intermediaries and is legally capable of providing the liability insurance services.	- A license copy (or equivalent document or prints) which allows to provide liability insurance services in the territory of the Republic of Latvia, issued by a competent authority. Insurance broker who has the right to provide liability insurance services outside the Republic of Latvia, but have not been registered for provision of liability insurance services in Republic of Latvia, in case Candidate will be awarded of contract, will have to register in Latvian Republic in accordance with the laws and regulations to be legally capable of providing relevant insurance services in Republic of Latvia (a license copy before

No	Requirement	Documents to be submitted
		the conclusion of the contract shall be submitted to the customer).
4.	The Candidate has to be registered in accordance with the laws of the state of this registration and is legally capable of providing the liability insurance services.	- A license copy (or equivalent document or prints) which allows the insurance company to provide liability insurance services in the territory of the Republic of Latvia, issued by a competent authority. Candidate who has the right to provide liability insurance services outside the Republic of Latvia, but have not been registered for provision of liability insurance services in Republic of Latvia, in case it will be awarded of contract, will have to register in Republic of Latvia in accordance with the laws and regulations to be legally capable of providing relevant insurance services in Republic of Latvia (a license copy before the conclusion of the contract shall be submitted to the customer).
5.	Insurance broker who represents an insurance company (if applicable) must have valid professional indemnity insurance with a limit of not less than 10 million EUR (in the amount of requested limit of Directors and Officers liability insurance);	- A copy of a valid professional indemnity insurance policy (if a candidate is an insurance broker who represents insurance company);

- 7.4. Notices and other documents, which are issued by Latvian competent institutions, are accepted and recognized by the procurement commission, if they are issued no earlier than 1 (one) month prior to the date of opening of the Proposals. Notices and other documents, which are issued by foreign competent institutions, are accepted and recognized by the procurement commission, if they are issued no earlier than 6 (six) month prior to the date of opening of Proposals.
- 7.5. If the documents, with which a Tenderer registered or permanently residing abroad can certify its compliance with the requirements of Section 7.1, are not issued or these documents are insufficient, such documents can be replaced with an oath or, if the regulatory enactments of the country in question do not allow for an oath, - with a certification by the Tenderer or a person on whose capabilities

the Tenderer relies before a competent executive governmental or judicial institution, a sworn notary or a competent organization of a corresponding industry in their country of registration (permanent residence).

8. RELIANCE ON THE CAPABILITIES OF OTHER PERSONS

- 8.1. For the fulfilment of the specific contract, in order to comply with the selection requirements for the Tenderers relating to the technical and professional ability (including regarding the team of key experts), the Tenderer may rely upon the capabilities of other persons, regardless of the legal nature of their mutual relationship. In this case:
 - 8.1.1. The Tenderer indicates in the Proposal all persons upon whose capabilities it relies by filling in the table which is attached as Annex 1 and proves to the Contracting authority that the Tenderer shall have available all the necessary resources for the fulfilment of the contract, by submitting a signed confirmation or agreement on cooperation and/or passing of resources to the Tenderer between such persons and the Tenderer. The confirmations and agreements on cooperation and passing of resources can be replaced by the Tenderer with any other type of documents with which the Tenderer is able to prove that the necessary resources will be available to the Tenderer and will be used during the term of fulfilment of the contract.
 - 8.1.2. Documents on cooperation and passing of resources have to be sufficient to prove to the Contracting authority that the Tenderer will have the ability to fulfil the contract, as well as that during the validity of the Contract the Tenderer will in fact use the resources of such person upon whose capabilities the Tenderer relies.
- 8.2. The Contracting authority shall evaluate the person, on whose capabilities the Tenderer to whom the rights to conclude the Contract should be assigned is relying. In case such person will comply with any of the exclusion grounds which are mentioned in Section 7.1, the Contracting authority shall request the Tenderer to change such person. If the Tenderer shall not submit documents about another person which complies with the selection criteria within 10 (ten) business days from the date when the request was issued or sent to the Tender, the Contracting authority shall exclude such Tenderer from further participation in the procurement.

9. SUBCONTRACTING

- 9.1. The Tenderer shall indicate in the Proposal all subcontractors of the Tenderer by filling in the table which is attached as Annex 1.

10. FINANCIAL PROPOSAL

- 10.1. The Financial proposal shall be submitted as part of Annex 1.
- 10.2. The proposed contract price shall be determined in euro without value added tax (hereinafter – VAT).

- 10.3. The proposed contract price is to be calculated and indicated with an accuracy of 2 (two) decimal places after comma. If more than 2 (two) decimal places after comma are indicated, then only the first two decimal places will be taken into account.
- 10.4. The proposed contract price shall include all taxes, fees and payments, and all costs related to the fulfilment of the obligations specified in the Contract.
- 10.5. The prices are fixed for all the term of the fulfilment of the Contract and are not recalculated, except in cases stipulated in the Contract (if any).

11. TECHNICAL PROPOSAL

- 11.1. Technical proposal shall contain description of the Technical specifications (Annex No 2).
- 11.2. Description of the Technical proposal shall conform with Technical specification as detailed in the Annex 2.

12. CONTENTS AND FORM OF THE PROPOSAL

- 12.1. The documents shall be included in the proposal in the following order (hereinafter – Proposal):
 - 12.1.1. title page with title "Directors and Officers liability insurance" No RBR 2018/5", name, address and contact information of the Tenderer;
 - 12.1.2. the table of contents with page numeration;
 - 12.1.3. application (financial proposal) in accordance with Annex No 1;
 - 12.1.4. technical proposal prepared in accordance with Section 11;
 - 12.1.5. information in accordance with Annex No 2, Annex No 3 and documents confirming compliance of the Tenderer with the selection criteria for the Tenderers;
 - 12.1.6. information and documents relating to entities on whose capabilities the Tenderer is relying, or the corresponding European single procurement documents;
 - 12.1.7. information about subcontractors in accordance with Annex No 1.
- 12.2. The Tenderer is not permitted to submit variants of the Proposal. If variants of the Proposal shall be submitted, the Proposal will not be reviewed.
- 12.3. The Tenderer shall submit a Proposal only for the whole subject matter of the procurement in total.
- 12.4. The Tenderer shall submit a Proposal sewn or bound together, the loose ends of the ribbon fixed so that they cannot be opened without damaging the fixation, upon which the Tenderer must confirm with a signature the number of pages contained in the Proposal.

- 12.5. The Proposal must be submitted in written form in English. Upon the request from procurement commission Tenderer will have to submit Proposal documents translated in Latvian in period within 2 (two) weeks.
- 12.6. The Tenderer shall submit 1 (one) signed Original, 1 (one) Copy and a digital format (USB format files being in MS Office format or PDF format) copy of the Proposal.
- 12.7. The Proposal may contain original documents or their derivatives (e.g. copies). In the proposal or in reply to a request of the procurement commission the Tenderer shall submit only such original documents which have legal force. In order for the document to gain legal force it has to be issued and formatted in accordance with the Law on Legal Force of Documents, but public documents issued abroad shall be formatted and legalized in accordance with the requirements of the Document Legalization Law. When submitting the Proposal, the Tenderer has the right to certify the correctness of all submitted documents' derivatives and translations with one certification.
- 12.8. The Tenderer shall submit Proposal in a glued up envelope, on which it shall be indicated: "Directors and Officers liability insurance" No RBR 2018/5". Do not open until 14 March 2018 at 14:00 o'clock". And the address: To the RB Rail AS, K. Valdemara Street 8 - 7, Riga, LV-1010. The name, address and telephone number of the Tenderer shall be specified on the envelope.

13. SUBMISSION OF A PROPOSAL

- 13.1. Proposal (documents referred to in the Section 11) shall be submitted personally, by courier or registered mail to the RB Rail AS, K. Valdemara street 8 - 7, Riga, LV-1010, Latvia by 14 March, 2018 till 14:00 o'clock.
- 13.2. The Tenderer may recall or amend its submitted Proposal before the expiry of the deadline for the submission of Proposals. In case of amendments, the Tenderer has to clearly indicate on the Proposal that the Proposal is amended by indicating: "AMENDMENTS" in addition to the information mentioned in Section 12.8.
- 13.3. Proposals submitted after the expiry of the deadline for the submission of Proposals shall not be reviewed.

14. OPENING OF PROPOSALS

- 14.1. The opening of Proposals takes place during an open meeting of the procurement commission at 14:00 o'clock on 14 March at RB Rail AS, K. Valdemara street 8 - 7, Riga, LV-1010.
- 14.2. The Proposals are opened in order of their submission, by naming the Tenderer, the time of Proposal submission, the proposed price and other information that characterizes the Proposal.

15. VERIFICATION OF PROPOSALS

- 15.1. Procurement commission verifies whether the submitted Proposals comply with the requirements stipulated in The Regulation (Section 12) and whether all required information and documents are submitted and selects for further evaluation the compliant Proposals.

16. SELECTION OF TENDERERS

- 16.1. Procurement commission verifies whether the tenderers comply with the selection criteria mentioned in Section 7.2. and 7.3. and selects conformable tenderers.

17. VERIFICATION OF TECHNICAL PROPOSALS

- 17.1. The Procurement commission verifies whether the submitted Technical proposals comply with the requirements stipulated in Section 11 and selects for further evaluation the compliant Technical proposals.

18. VERIFICATION OF FINANCIAL PROPOSALS

- 18.1. The procurement commission verifies whether Tenderers have completed Annex 1 "Application" in accordance with the requirements.
- 18.2. The procurement commission verifies whether there are any arithmetical errors, whether an abnormally low price Proposal has been received, as well as assesses and compares the Contract prices proposed.
- 18.3. The procurement commission informs the Tenderer whose mathematical errors have been corrected about the correction of mathematical errors and the corrected financial proposal.
- 18.4. When evaluating the financial proposal, the procurement commission takes corrections into account.
- 18.5. The procurement commission has the right to demand that the Tenderer explains the calculation upon which the financial proposal is based and other related aspects in order to ascertain the objectivity of the financial proposal and whether an abnormally low price Proposal has been submitted.
- 18.6. The procurement commission further evaluates the compliant Proposals which have not been declared as abnormally low price proposals.

19. CONTRACT AWARD CRITERIA

- 19.1. The Proposal selection criterion is the most economically advantageous proposal, according to the evaluation methodology described in this Section below.
- 19.2. The economically most advantageous proposal shall be Proposal with the lowest proposed contract price (the only evaluation criterion), which complies with the requirements stipulated by the Regulation.

- 19.3. The procurement commission shall determine a Tenderer in accordance with Section 19.2 and the Contract shall be awarded to the Tenderer with lowest proposed contract price.
- 19.4. In case several Tenderers will propose equal contract price, the procurement commission will invite representatives of those particular Tenderers and organize a draw. In situation, when representatives of Tenderers chose to not be present at the draw, procurement commission will carry out the draw without representatives of Tenders present.

20. TENDERER'S CHECK PRIOR TO MAKING THE DECISION REGARDING THE CONCLUSION OF THE CONTRACT

- 20.1. Prior to making the decision about assigning rights to conclude the Contract, the procurement commission performs a check regarding the existence of grounds for exclusion of tenderers for Tenderers, members of a partnership (if the Tenderer is a partnership) and persons on whose capabilities the Tenderer is relying.
- 20.2. If, in accordance with the information published on the day of the last data update in a public database, on the last day of proposal submission or on the day when the decision regarding the possible assignment of rights to conclude a Contract is made, the Tenderer, member of a partnership (if the Tenderer is a partnership), or a person on whose capabilities the Tenderer is relying have tax debts, including state mandatory insurance contributions debts, the total sum of which exceeds 150 euro, the procurement commission informs the Tenderer and sets a deadline – 10 days from the day of issuing or receiving information – for the submission of a certificate evidencing absence of tax debt or decision to prolong the deadline or postpone payment of the tax, an agreement on payment of the tax or other objective evidence proving absence of a tax debt.
- 20.3. If the Tenderer fails to submit required evidence about itself before the deadline, the procurement commission excludes the Tenderer from participation in the procurement.

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

- 21.1. The procurement commission selects the Tenderers in accordance with the set selection criteria for Tenderers, verifies the compliance of the Proposals with the requirements stipulated in the Regulation and chooses the Proposal in accordance with the Contract award criteria as described in Section 19. The Tenderer whose Proposal shall receive the best score shall be selected.
- 21.2. Within 3 (three) business days from the date of decision about the procurement results the procurement commission informs all the Tenderers about the decision made by sending the information by post or electronically and keeping the evidence of the date and mode of sending the information. The procurement commission announces the name of the chosen Tenderer, indicating:
- 21.2.1. To the refused Tenderer the reasons for refusing its Proposal;

- 21.2.2. To the Tenderer who has submitted an eligible Proposal, the characterization of the chosen proposal and the relative advantages.
- 21.4. Procurement commission publishes the decision report of the procurement procedure at the Internet webpage of the Contracting authority <http://www.railbaltica.org/tenders/>.
- 21.5. If the public procurement procedure is terminated, the procurement commission within 3 (three) business days simultaneously informs all Tenderers about all the reasons due to which the procurement procedure is terminated, and informs about the deadline within which a Tenderer may submit an application regarding the violations of the public procurement procedure to the Administrative court.
- 21.6. The procurement commission, when informing of the results, has the right not to disclose specific information, if it may infringe upon public interests or if the Tenderer's legal commercial interests or the conditions of procurement would be violated.
- 21.7. The selected Tenderer upon receiving the notification about the procurement results must within 5 (five) business days submit cooperation or partnership agreement if required pursuant to requirements under Section 6.1.2.
- 21.8. The Contract is concluded on the basis of the Tenderer's Proposal and in accordance with Annex 4.
- 21.9. The procurement commission has the right to choose the next most economically advantageous Proposal, if the Tenderer in the time stipulated by the Regulation:
- 21.9.1. refuses to conclude a partnership agreement in the cases and deadlines defined by the Regulation, or in the cases and deadlines defined by the Regulation does not submit a copy of the partnership agreement or does not inform of the founding of a partnership Contracting authority;
- 21.9.2. refuses to conclude the Contract or does not submit a signed Contract.
- 21.10. In such a case the procurement commission is entitled to terminate this procurement without selecting any Proposal, or to select the Proposal with the next best score. For either of these decisions a written decision must be made.
- 21.11. Prior to making the decision regarding the conclusion of the Contract with the next Tenderer, the procurement commission assesses whether the next Tenderer is one market participant together with the initially selected Tenderer. If the next selected Tenderer is found to be one market participant together with the initially selected Tenderer, the procurement commission makes a decision to terminate the procurement without selecting any Proposal. If the next chosen Tenderer also refuses to conclude the Contract or does not submit a signed public procurement Contract within the deadline set by the procurement commission, the procurement commission makes the decision to terminate the procurement without selecting any Proposal.

ANNEX NO 1: APPLICATION

2018.____.____

No _____

APPLICATION FOR PARTICIPATION IN THE PROCUREMENT
"Directors and Officers liability insurance", No RBR 2018/5

Tenderer [name of the Tenderer or members of the partnership], reg. No. [registration No of the Tenderer or members of the partnership], represented by [name, last name and position of the representative of the Tenderer], by submitting this application:

1. Confirms participation in the procurement "Directors and Officers liability insurance" No RBR 2018/5.
2. Offers to deliver services in accordance with the Terms of reference and Technical Specifications for the following price:

No	Service	Quantity	Unit price EUR, excl. VAT	Amount EUR, excl. VAT
1	Amount of Premium (100% annual)	1 year		
2	Any other costs.			
3	...			
Total amount of the Proposal EUR (excl. VAT):				

Total amount of the Proposal EUR (excl. VAT) in words: _____.

Please provide the following information:

No	Service	Quantity	Unit price EUR, excl. VAT	Amount EUR, excl. VAT
Extended discovery period, in case insurance for the next period will not be carried out or the limit of liability will be reduced. When one of these cases, policy holder is buying additional insurance coverage for the extended discovery period with additional premium:				
1	3 years: ...% (shall not exceed 100%) of the full annual premium in effect at the expiry of the policy period			

3. Confirms that the Regulation is clear and understandable, that it does not have any objections and complaints and that in the case of granting the right to enter into a Contract it shall fulfil all conditions of the Regulation as well as enter into a procurement Contract in accordance with the draft Contract enclosed with the Regulation.
4. Guarantees that all information and documents provided are true.
5. declares that, for the purposes of qualifying for the procurement, we rely on the capabilities of the following entities:

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

2.		
3.		

6. declares that during the execution of the Contract we will have sub-contractors as stated below and confirm that the list is complete:

No	Name of the sub-contractor	Sub-contracted tasks		
		Description of the sub-contracted task	Amount, EUR (without VAT)	% from the proposed price
1	Total amount of the sub-contracted tasks			
1				
2				
n+1				
Total:				

We meet the criteria of *(please mark)*:

☐ a small ☐ medium ☐ other

sized enterprise¹ as defined in the Article 2 of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise;²

Date: [date of signing]

Name: [name of the representative of the Tenderer and position]

¹ The information on the size of the Candidate is used solely for statistical purposes and are not in any way whatsoever used in the evaluation of the Candidates and their Requests to participate.

² Available here - http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2003.124.01.0036.01.ENG&toc=OJ:L:2003:124:TOC

ANNEX NO 2: INFORMATION ABOUT THE TENDERER EXPERIENCE IN SIMILAR SUBJECT-MATTER SERVICE DELIVERY FOR LAST 3 (THREE) YEARS (2015., 2016., 2017.)

No	Experience (name of delivered services, description of services, time frame and place)	Capex of service (if disclosable) (price and amount of liability)	Customer (name of entity)	Contacts (Name surname, position, phone no and e-mail)
1.				
2.				
3.				

I certify that the information supplied in this form is accurate and to the best of my knowledge. I understand that at a later stage of this process the Company may ask for evidence as to the claims made by and information provided in this form. I understand that I understand and accept that false information could result in rejection of the application to be selected to take part in the tender process as well as in criminal liability under applicable laws.

Date: [date of signing]

Name: [name of the representative of the Tenderer and position]

ANNEX NO 3: TERMS OF REFERENCE

Background of RB Rail AS

The Joint Stock Company RB Rail (hereinafter RB Rail) has been established on October 28, 2014 by the republics of Estonia, Latvia and Lithuania to coordinate the building of a fast conventional standard gauge railway Rail Baltica linking three Baltic states with Poland and the rest of the EU (hereinafter also referred to as the project). RB Rail is established as a consortium in Latvia for coordinating works between the three Baltic States. Its main stakeholders are its indirect shareholders – governments of Latvia (SIA Eiropas dzelzceļa līnijas - 33,33%), Estonia (OÜ Rail Baltic Estonia - 33,33%) and Lithuania (UAB Rail Baltica statyba - 33,33%) (see Figure 1).

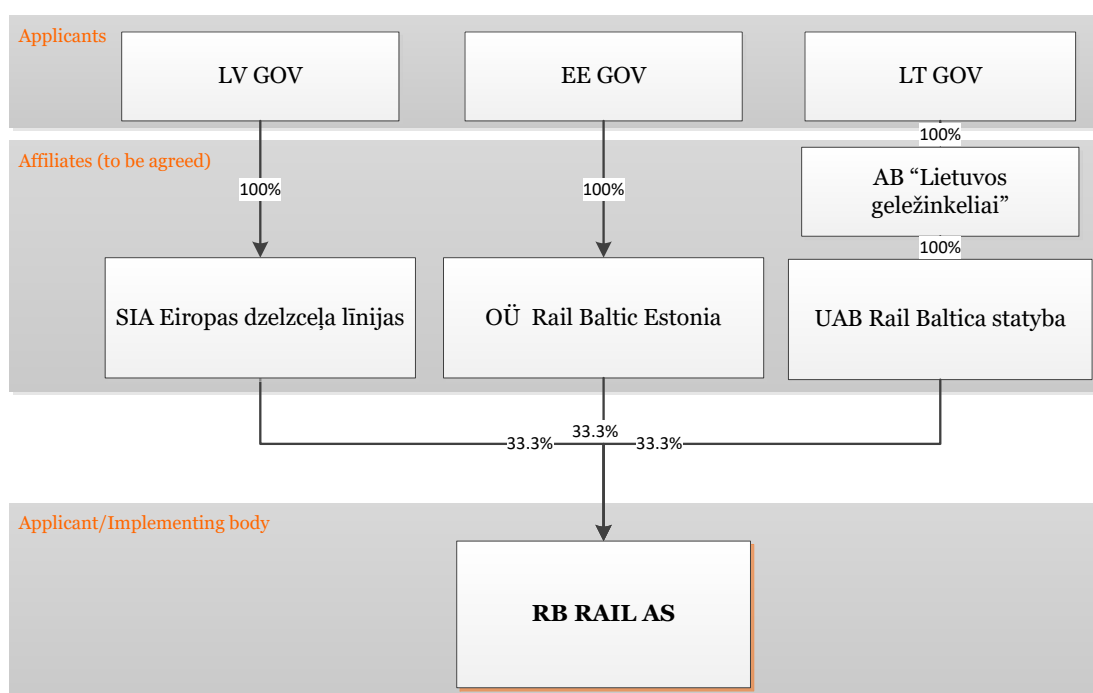


Figure 1. RB Rail AS legal structure

Main business of the Company is design, construction and marketing (including branding) of the Rail Baltic / Rail Baltica Railway - new fast conventional double track electrified railway line with the maximum design speed of 240 km/h and European standard gauge (1435 mm) on the route from Tallinn through Pärnu-Riga-Panevezys-Kaunas to the Lithuanian-Polish border with the connection of Vilnius-Kaunas (the Global Project 2nd stage, which is the development of a 1435 mm gauge double track mixed traffic fast conventional electrified railway line with a maximum design speed of 240 km/h in the Rail Baltica corridor through Estonia, Latvia and Lithuania on the TEN-T North Sea – Baltic Core Network Corridor). The Company is accountable for the delivery of the 2nd stage of the Global Project.

RB Rail AS by the end of 2016 has established the following branch offices in Lithuania and Estonia:

- **RB Rail AS Lithuanian branch**, established on 6 December, 2016, Reg. No: 304430116, Address: Gediminas ave 20, LT-01103 Vilnius, Lithuania.



Co-financed by the European Union
Connecting Europe Facility

- **RB Rail AS Estonian branch**, established: on 14 December, 2016, Reg. No: 14168654, Address: Valukoja 8, Ülemiste City, Öpiku building, Tallinn, 11415 Estonia.

RB Rail is looking for a D&O liability insurance provider, to provide RB Rail's accountable persons with civil liability insurance in accordance with Technical specification, and other provisions set by this document. It is understood that accountable persons include existing members, ex-members and future members of the Supervisory Board, Management board and Shareholder representatives and other RB Rail employees as requested.

Candidates offering insurance have to envisage that compensation includes any financial loss, including – expenditures, financial losses, compensations and other expenses which could arise against RB Rail accountable persons (including any person in company to whom responsibility of decision making is delegated) by civil request of any third party, caused by performance of duties of RB Rail accountable persons including compensation of costs of expertise, law services for advocacy and other litigation costs.

Insurable persons (existing):

Names of the board and council members (indicating the name and date of appointment):

Supervisory Board:

- Riia Sillava;
- Anti Moppel;
- Edvīns Bērziņš;
- Vineta Rudzīte;
- Karolis Sankovskis;
- Arenijus Jackus.

Management Board:

- Baiba A. Rubesa;
- Kaspars Rokens;
- Ignas Degutis.

RB Rail Legal address: Krišjāņa Valdemāra iela 8-7, Rīga, LV-1010.

ANNEX NO 4: TECHNICAL SPECIFICATION

TECHNICAL SPECIFICATION

FOR PROCUREMENT

DIRECTORS AND OFFICERS LIABILITY INSURANCE

Type	"Directors and Officers liability insurance"
Policyholder	RB RAIL AS
Policyholder's address	Krišjāņa Valdemāra iela 8-7, Rīga, LV-1010
Policy Period	12 months, 24 hours in day
Limit of Liability	<p>EUR 10,000,000 any one claim and in the aggregate for the Policy Period.</p> <p>Special Excess Protection for Supervisory Board members and Shareholder representatives (payable in addition to the Limit of Liability):</p> <ul style="list-style-type: none"> a) per Supervisory Board members and Shareholder representative limit: EUR 1,000,000 (10% of the limit of liability up to maximum of EUR 1,000,000); b) aggregate limit for all Supervisory Board members and Shareholders representatives: EUR 6,000,000 (60% of the limit of liability up to maximum of EUR 6,000,000).
Insured Persons	<p>Policyholder's:</p> <ul style="list-style-type: none"> a) Supervisory Board Members; b) Shareholder representatives; c) Management Board members; d) Managers of the Policyholder's branches; e) Employees of the Policyholder and the Policyholder's branches who have been working in managerial or supervisory capacity (including, but not limited to members of a procurement commission established by the Policyholder, and those employees of the Policyholder and the Policyholder's branches who are members of a procurement commission established by Rail Baltic Estonia OÜ (reg No 12734109), Eiropas dzelzceļa līnijas SIA (reg No 40103836785), Akcine bendrove Lietuvos geležinkeliai (reg No 110053842), UAB "Rail Baltica statyba" (reg No 303227458)). <p>The cover shall extend to claims brought against Insured Persons during the validity term of this Policy (including persons, who have become Insured Persons during the validity term of this Policy), as well as against former (including the Insured Persons, who were directors and officers prior to the validity term of this Policy) directors and officers of the Policyholder and the Policyholder's branches (including subsidiaries).</p>
Minimum Insurance Cover	<p>Insurance Cover – third party liability for losses resulting from a claim against Insured Persons in relation to wrongful acts they have committed (actual or alleged breach of duty, negligence, error, misstatement, omission, a conflict of interest, accounting inaccuracies, power of attorney misuse, false statements, false recommendations, expenses, damages, compensations and other payments, to the Insured Person have or will be obliged to pay in connection with any third party claim which incurred in connection with the performance of duties and acceptance decisions at RB Rail AS and/or RB Rail AS branches, as well as reimbursement of expertise, legal and litigation expenses for the Insured Person against third-party claims etc.).</p>
Third Party	<p>Any individual or legal entity, state authority, RB Rail AS, RB Rail AS branches and RB Rail AS shareholders who has suffered losses in the result of the insurable event and to whom the Insurance Indemnity is payable.</p>
Minimum Insurance Extensions	<p>Extradition Expenses (Accredited Crisis Counsellor and / or Tax Advisor) Extension.</p> <p>Extradition Expenses (Public Relations Consultants) Extension.</p> <p>Personal Expenses Extension.</p> <p>Insolvency Hearing Cover Extension.</p> <p>Reputation Expenses Extension.</p> <p>Circumstance/Claim Mitigation Extension.</p>

	<p>Discovery Period Extension.</p> <p>Emergency Costs Extension.</p> <p>Civil fines, Administrative fines, Criminal fines and Penalties Extension.</p> <p>Company Crisis Loss Extension.</p> <p>The policy cover shall include also claims brought by shareholders.</p> <p>Corporate Taxes Extension.</p>
Minimum Sublimit	<p>Extradition Expenses (Accredited Crisis Counsellor and / or Tax Advisor) no less as EUR 50,000 in the aggregate.</p> <p>Extradition Expenses (Public Relations Consultants) no less as EUR 250,000 in the aggregate.</p> <p>Personal Expenses no less as EUR 250,000 in the aggregate.</p> <p>Insolvency Hearing Cover no less as EUR 50,000 in the aggregate.</p> <p>Reputation Expenses no less as EUR 250,000 in the aggregate.</p> <p>Circumstance/Claim Mitigation: Mitigation Costs, Prosecution Costs and Professional Fees no less as 10% of the limit of liability with a maximum of EUR 1,000,000.</p> <p>Emergency Costs no less as 20% of the limit of liability.</p> <p>Company Crisis Loss no less as EUR 100,000 in the aggregate.</p> <p>Civil fines, Administrative fines, Criminal fines and Penalties Extension no less as EUR 500,000 in the aggregate.</p> <p>Responsibility for Corporate Taxes extension 10% of the limit of liability.</p>
Retroactive Date	28 October 2014
Discovery Period	<p>Extended Discovery Period 3 years, in the case if this Policy is neither renewed nor replaced for any reason or the Limit of Liability will be reduced.</p> <p>When one of these cases, Policyholder is buying additional insurance coverage for the Extended Discovery Period with additional premium:</p> <p>3 years: % (will be set in amount of proposal) of the full annual premium in effect at the expiry of the policy period.</p>
Retired Directors	<p>The Insurer will provide an unlimited Extended Discovery Period for any Insured Person who retires or resigns, other than by reason of a Transaction or Insolvency, during the Policy Period, provided that:</p> <ul style="list-style-type: none"> (i) this Policy is not renewed or replaced with any other Insured Person liability cover; or (ii) where this Policy is renewed or replaced with any other Insured Person liability cover, such renewal or replacement policy does not provide an extended discovery period of at least 6 (six) years for such retired Insured Persons.
Past Insured	<p>An Insured Person who during the Policy Period has retired from or ceased to hold an office as Insured Person other than an individual disqualified by an official, regulatory or judicial body or authority or court or arbitration, provided that there is no merger or acquisition and the Policyholder is not insolvent.</p> <p>The Insurer will pay to or on behalf of a Past Insured any loss arising from any claim first made against them following the Expiry Date of the Policy Period for a wrongful act committed before the Insured Person ceases to hold the office of an Insured Person, provided that such a Past Insured is not covered by any other policy affording Directors and Officers or Management Liability Cover which renews or replaces this Policy further to its expiration.</p> <p>Any claim shall be allocated to the last Policy Period and the remaining Limit of Liability shall apply.</p>
Insurance Territory	Worldwide.
Trigger	<p>Under this insurance, the grounds for indemnification must be any written demand for monetary or non-monetary relief or any civil (including arbitration and other alternative dispute resolution), criminal, regulatory or administrative proceeding against an Insured Person for a wrongful act, deemed to be made upon receipt by or service upon the Insured Person, whichever is earlier within</p>

	the Insurance Period or Extended Reporting (discovery) Period (if it is in force) - claims made policy.
	Representative of Insured Person (sworn advocate) against the third party claims shall be selected by the Insured Person.
Payment of Insurance Indemnity	The Insurance Indemnity payment shall be made within 30 (thirty) calendar days from the day after receipt of all necessary documents.
Deductible of the Insured Person	0 EUR per any claim.
Jurisdiction	Policy (including without limitation any issues arising out of or in connection with negotiation, validity, enforceability or other non-contractual disputes) is in all respects to be construed in accordance with and governed by Latvia law only.

ANNEX NO 5: DRAFT CONTRACT

SERVICE
AGREEMENT

between

[•]
and
[•]

Agreement registration number

--

CEF³ Contract No INEA/CEF/TRAN/M201[•]/[•]

C[•]

Dated [•] [•]2018

³ Grant Agreement under the Connecting Europe Facility (CEF) -Transport Sector Agreement No INEA/CEF/TRAN/M201[•]/[•]

- (1) **RB Rail AS**, a joint stock company registered in the Latvian Commercial Register registration No 40103845025, having its registered address at K. Valdemāra iela 8-7, Riga, LV 1010, Latvia (hereinafter - **the Policyholder**), represented by its Chairperson of the Management Board Ms Baiba Anda Rubesa and Management Board Member [•] acting on the basis of the Power of Attorney No 9/2017-17 (dated 11 December 2017), on the one side,

and

- (2) [•], a [•] company organized and existing under [•] law registered with [•] under the registration number [•], having its registered address at [•] (hereinafter - **the Insurer**), represented by [•][•][•] acting on the basis of [•],

1. Subject of the Contract

- 1.1. *The Policyholder* shall order and pay, but *the Insurer* shall undertake to perform insurance of directors and officers liability of *the Policyholder*, for 12 (twelve) calendar months from the day of entering into the Contract and issue a Policy, in accordance with the technical specification (Annex No.1) and financial proposal of *the Insurer* for the Procurement (Annex No.2), as well as the terms and conditions of this Contract, which shall become as integral parts of this Contract, hereinafter - **the Service**.
- 1.2. On the day of entering into the Contract *the Insurer* shall issue an insurance policy (hereinafter - **the Policy**), to *the Policyholder*, which shall become as an integral part of this Contract and shall come into force on [•].
- 1.3. The terms and conditions of the insurance shall not be contrary to the terms and conditions of this Contract. In case of contradiction, the terms and conditions of the Contract shall prevail.
- 1.4. Upon signing this Contract, *the Insurer* confirms that equal insurance coverage and limits of responsibility shall be ensured for the whole period of the Contract and it shall not be entitled to terminate the Contract during its validity term.

2. Validity Period and Validity of the Contract

- 2.1. This Contract shall come into force after mutual signing thereof and day of registration of the Contract with *the Policyholder*, i.e., [•] March 2018, and shall be valid for 12 months 24 (twenty four) hours per day until the date of expiry of the Policy. **The validity period of the Policy shall be from [•] March 2018 at 0:00 o'clock until [•] March 2019 at 23:59 o'clock.**
- 2.2. Upon mutual agreement, the Parties shall be entitled to terminate this Contract at any time.
- 2.3. *The Policyholder* shall be entitled to unilaterally terminate this Contract before the expiry thereof by warning *the Insurer* on that in writing 15 (fifteen) calendar days in advance, if:
- 2.3.1. *The Insurer* fails to fulfil the liabilities set in this Contract or fulfils them in a part;
- 2.3.2. *The Insurer* has been declared as insolvent, undergoes the restructuring, winding-up proceedings or bankruptcy proceeding under the court judgement;
- 2.3.3. A licence for performance of insurance has been annulled for *the Insurer*;
- 2.3.4. The contractual penalty calculated for *the Insurer* has reached the maximum amount set in the Contract - 10% (ten percent) from the amount of the insurance premium referred to in Paragraph 3.1 of the Contract.
- 2.3.5. in other special cases, having reasonable grounds for that, by informing *the Insurer* on that in writing at least 30 (thirty) calendar days in advance.
- 2.4. *The Insurer* shall be entitled to unilaterally terminate this Contract before expiry thereof by warning *the Policyholder* on that in writing 15 (fifteen) calendar days in advance, if:
- 2.4.1. *The Policyholder* fails to make payment of the insurance premium referred to in sub-paragraph 3.1 of the Contract in the amount and in accordance with the procedure set in this Contract;
- 2.4.2. *The Policyholder* undergoes the winding-up proceedings;
- 2.4.3. The contractual penalty calculated for *the Policyholder* has reached the maximum amount set in the Contract - 10% (ten percent) from the amount of the insurance premium referred to in Paragraph 3.1 of this Contract.
- 2.5. Upon terminating the Contract in an unilateral manner, in accordance with sub-paragraph 2.3 and 2.4 of the Contract, *the Insurer* shall pay back to *the Policyholder* a part of the unused insurance premium, which shall be proportional with the remaining validity period of the Policy, without deducting expenses for administrative expenses, by making the repayment within 10 (ten) working days from the day of receipt of the submission of *the Policyholder*.

- 2.6. In case of need the Policyholder may request to prolong the insurance period for 1 (one) calendar month and in total not exceeding 10% from the amount referred to in Paragraph 3.1 of this Contract.

3. Insured Amount and Premium

- 3.1. *The Policyholders* shall pay to *the Insurer* the annual insurance premium in the amount of [•] ([•]) and *the Insurer*, upon occurrence of the insured event, shall pay the insurance indemnity.
- 3.2. *The Policyholder* shall pay the insurance premium referred to in Paragraph 3.1 of this Contract for the Service provided by *the Insurer* - insurance of liability of officials, excluding VAT, in accordance with Section 52, Paragraph one, sub-paragraph 20 of the Value Added Tax Law.
- 3.3. In case if regulatory enactments of the Republic of Latvia change during the validity period of the Contract and the services provided by insurers are taxable with VAT, *the Policyholder* shall pay them in addition, and the amounts included in the Contract shall be considered as the ones that exclude the value added tax
- 3.4. The contract price shall include all expenses in relation to provision with insurance, except for expenses of the event stipulated in Paragraph 3.3 of the Contract.
- 3.5. *The Policyholders* shall pay the annual insurance premium, within 30 (thirty) calendar days after conclusion of the Contract and the day of receipt of the invoice issued by *the Insurer*, to the current account specified in the invoice.
- 3.6. The day when the wire transfer made by *the Policyholder* has reached the current account of *the Insurer* specified in the invoice shall be considered as the payment date.

4. Rights and Obligations of the Parties

4.1. *The Policyholder shall:*

- 4.1.1. comply with the terms and conditions of the Contract;
- 4.1.2. undertake to provide *the Insurer* with all information necessary for fulfilment of this Contract;
- 4.1.3. pay the insurance premium referred to in Paragraph 3.1 of this Contract, in accordance with the terms and conditions of this Contract;
- 4.1.4. be entitled to attract expert for evaluation of the insured event;
- 4.1.5. in case if *the Policyholder* has not showed any objections regarding the decision taken on indemnity within 10 (ten) calendar days from the receipt of the decision made, it shall be deemed that it agrees with the decision made;
- 4.1.6. in order to receive the insurance indemnity, *the Policyholder* within 10 (ten) workings days after occurrence of the insured event, as soon as it has become possible, shall inform via telephone [•] and electronically send the application for indemnity to the e-mail address of *the Insurer*: [•], and notify *the Insurer* on the occurrence of the insured event;

4.2. *The Insurer shall:*

- 4.2.1. ensure proper quality of the Service, in accordance with the offer submitted to *the Policyholder* and provisions of the present Contract;
- 4.2.2. undertake to precisely comply with and fulfil the provisions of the Contract in a timely manner;
- 4.2.3. pay the insurance indemnity, in accordance with the amount, procedure and terms set in the Law On Insurance Contracts and this Contract;
- 4.2.4. in case of occurrence of the insured event, make a decision regarding disbursement of the insurance indemnity and disburse the insurance indemnity within 30 (thirty) calendar days after the day of receipt of all necessary documents, which prove the occurrence of the insured event and the amount of losses;
- 4.2.5. In case of termination of the policy in accordance with the procedure referred to in sub-paragraph 2.3 of the Contract *the Insurer* shall back a part of the unpaid premium in proportion with the remaining validity period of the Policy, without deducting expenses for administrative expenses;
- 4.2.6. provide that the Insurance Conditions shall remain unchanged for the whole validity period of the Contract;
- 4.2.7. not be entitled to refuse to disburse the insurance indemnity within the term set in Paragraph 4.2.4 of the Contract;
- 4.2.9. receive the insurance premium set in the Contract, in accordance with the provisions of Paragraph 3.1 of the Contract;
- 4.2.10. if *the Policyholder* fails to agree with the amount of losses calculated by *the Insurer* pursuant to agreement between the Parties, *the Insurer* may disburse a part of the insurance indemnity up to the amount that is not disputed by any of the Parties, until making payment of loss in full;

5. Responsibility of the Parties

- 5.1. *The Policyholder and the Insurer* confirm by mutual signing of the Contract that there are no circumstances prohibiting the Parties to enter into this Contract.
- 5.2. *The Insurer* confirms of having all necessary rights in order to provide the Service in accordance with the terms and conditions of this Contract.
- 5.3. Upon entering into the present Contract, *the Insurer* confirms of being informed and evaluated all risks covered.
- 5.4. The Parties shall be responsible for failure to fulfil the Contract or improper fulfilment thereof, as well as for losses caused to the other Party, if they have occurred as a result of activity or inactivity of one Party or employees thereof, as well as activities or neglect caused as a result of gross negligence and evil intent. The Party at fault shall compensate to the other Party the occurring losses.
- 5.5. *The Insurer* shall have an obligation to prove any circumstances, exempting it from the liabilities set in the Contract to disburse the insurance indemnity.
- 5.6. If *the Insurer* fails to provide *the Service*, in accordance with the terms and conditions of the Contract, which is reflected in non-compliance of the terms set in this Contract, *the Insurer* shall pay to *the Policyholder* a contractual penalty in the amount of 0.1% (one tenth of a percent) from the annual insurance premium for each day of delay. The total amount of the contractual penalty shall not exceed 10 % (ten percent) from the amount of the annual insurance premium.
- 5.7. If *the Policyholder* fails to make the payment of the insurance premium set in sub-paragraph 3.1 of the Contract, in accordance with the terms and conditions of this Contract, *the Policyholder* shall pay to *the Insurer* a contractual penalty in the amount of 0.1 % (one tenth of a percent) from the annual insurance premium of the Contract for each day of delay. The total amount of the contractual penalty shall not exceed 10 % (ten percent) from the amount of the annual premium referred to in sub-paragraph 3.1 of the Contract.
- 5.8. Payment of the contractual penalty shall not exempt the Parties from fulfilment of liabilities of this Contract.

6. Governing law and resolution of disputes

- 6.1. This Agreement shall be governed by and construed in accordance with the law of the Republic of Latvia.
- 6.2. 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.
- 6.3. Should the Parties fail to agree by means of amicable negotiations within the time period of thirty (30) days from the date of serving of the respective written complaint to the other Party, the Parties shall submit all their disputes arising out of or in connection with this Agreement to the exclusive jurisdiction of the courts of the Republic of Latvia.

7. Force Majeure

- 7.1. Subject to the requirements set forth in accordance with Paragraph 7.2 and 7.3, each Party shall be relieved from liability for nonperformance 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.
- 7.2. Each Party shall at all times, following the occurrence of a Force Majeure Event:
 - (a) take reasonable steps to prevent and mitigate the consequences of such an event upon the performance of its obligations under this Agreement;
 - (b) 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
 - (c) 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 Paragraph 7.1.
- 7.3. 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 three (3) Working Days of it becoming aware of the relevant Force Majeure Event. Such notification shall give sufficient details to identify the particular event claimed to be a Force Majeure Event and shall contain detailed information relating to the failure to perform (or delay in performing), including the date of occurrence of the Force Majeure Event, the effect of the Force Majeure Event on the ability of the affected Party to perform, the action being taken in accordance with Paragraph 7.2. 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.

- 7.4. 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).
- 7.5. As soon as practicable after the notification specified pursuant to Paragraph 7.3., the Parties shall use reasonable endeavours to agree appropriate terms or modifications to the Scope of Service and Service Schedule to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Agreement.

8. Confidentiality

- 8.1. The Parties shall undertake not to use and not to disclose to third parties the confidential information (any written or verbal information, including financial information, commercial secrets, lists of customers, any information and documents with regard to discussion of the Contract between the Parties and other information that is not publicly available).
- 8.2. All information that *the Policyholder* has received from *the Insurer* within the framework of the Contract or acquired from other persons is confidential. *The Policyholder* shall not be entitled to disclose any such information to third parties, without a written consent of *the Insurer*, neither during the validity period of the Contract, nor after expiry of the validity period of the Contract.

9. Visibility Requirements

- 9.1. *The Insurer* is obliged to comply with the following visibility requirements:
 - 9.1.1. Any reports, brochures, other documents or information connected with Service which *the Insurer* produces and submits to *the Policyholder*, any other third person or makes publicly available must include the following:
 - 9.1.1.1.1. a funding statement stating that Service is the recipient of the funding from the CEF: "Rail Baltica is co-financed by the European Union's Connecting Europe Facility";
 - 9.1.1.1.2. (for printed materials) a disclaimer releasing the European Union from any liability in terms of the content of the dissemination materials: "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." This disclaimer in all European Union official languages can be seen at the website: <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>;
 - 9.1.1.1.3. the European Union flag.
 - 9.1.2. Requirements set in Paragraph 9.1.1 can be fulfilled by using the following logo:



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Connecting Europe Facility

If *the Insurer* shall use this logo, *the Insurer* shall ensure that elements of the logo will not be separated (the logo will be used as one whole unit) and enough free space around the logo shall be ensured;

- 9.1.3. *The Insurer* is obliged to comply with the latest visibility requirements set by the European Union. For that purpose, *the Insurer* shall follow the changes in the visibility requirements on its own. On the date of conclusion of this Agreement the visibility requirements are published on the following website: <https://ec.europa.eu/inea/connecting-europe-facility/cef-energy/beneficiaries-info-point/publicity-guidelines-logos>.

10. Authorised Persons of the Parties

- 10.1. During the control of fulfilment of the Contract the responsible person of *the Policyholder* shall be: [•], telephone number [•], e-mail address: [•].
- 10.2. During the control of fulfilment of the Contract the responsible person of *the Insurer* shall be: [•], telephone number [•], e-mail address: [•].

11. Final Provisions

- 11.1. In case if any of the provisions of the Contract becomes void as a result of amendment to regulatory enactments, this Contract shall not become void with regard to other paragraphs thereof. In such a case the Parties shall apply the Contract in accordance with the effective regulatory enactments.
- 11.2. In case if details for any of the Parties or contact persons of the Parties or contact information thereof set in Paragraph 10 of the Contract are changed, the relevant Party shall notify the other Party on that in writing within

five working days from the day of occurrence of such changes. After receipt of the notification (secretariat's notice) it shall become as an integral part of the Contract. If the Party fails to fulfil the provisions of the present sub-paragraph, it shall be deemed that the other Party has fulfilled its liabilities in full by using the information available in this Contract regarding the other Party.

- 11.3. In case of reorganisation of the Parties, this Contract shall remain valid and the provisions thereof shall be binding to the legal successor thereof. The Party shall warn the other Party in writing on the occurrence of such circumstances ten days in advance.
- 11.4. The Parties shall agree in writing on amendments or supplementations to the Contract, except for the case of information change referred to in sub-paragraph 11.2 of this Contract. The written agreements shall be signed and prepared in two copies, one copy for each of the Parties, and shall be enclosed with this Contract as an integral part thereof.
- 11.5. Information exchange between the Parties in cases referred to in Paragraph 4.1.7 and 11.2 of this Contract may be performed also by using e-mails, which shall become as integral parts of the Contract, except for terms and conditions of the Contract, which provides for information exchange in the written form.
- 11.6. The Parties shall not be entitled to deliver their rights and obligations related to this Contract and arising from that to third persons.
- 11.7. Annexes to this Contract shall become as an integral part of this Contract.
- 11.8. This Contract is prepared on [•] ([•]) pages in two copies, including the principal wording of the Contract on [•] ([•]) pages, [•]. Both copies of this Contract shall have the same legal force.

12. Details and Signatures of the Parties

THE POLICYHOLDER:

THE INSURER:

Annex C: DECLARATION OF SERVICE PROVIDER

Date: [insert date]

Location: insert location

I, the undersigned duly authorised representative, on behalf of [name of the service provider] undertake (hereinafter, **Declaration of Service Provider**):

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

matters, undertake initiatives to promote greater environmental responsibility and encourage the diffusion of environmentally friendly technologies implementing sound life-cycle practices;

- (j) To identify and manage chemical and other materials posing a hazard if released to the environment to ensure their safe handling, movement, storage, recycling or reuse and disposal;
- (k) To monitor, control and treat as required prior to discharge or disposal wastewater and solid waste generated from operations, industrial processes and sanitation facilities;
- (l) To characterize, monitor, control and treat as required prior to discharge or disposal air emissions of volatile organic chemicals, aerosols, corrosives, particulates, ozone depleting chemicals and combustion by-products generated from operations;
- (m) To reduce or eliminate at the source or by practices, such as modifying production, maintenance and facility processes, materials substitution, conservation, recycling and re-using materials, waste of all types, including water and energy;
- (n) To adhere to the highest standards of moral and ethical conduct, to respect local laws and not engage in any form of corrupt practices, including but not limited to extortion, fraud, or bribery;
- (o) To disclose (a) any situation that may appear as a conflict of interest, such as but not limited to: where a service provider or an undertaking related to the service provider has advised the Principal or has otherwise been involved in the preparation of the procurement procedure; and (b) if the Principal's, professional under contract with the Principal or Sub-Contractor may have a direct or indirect interest of any kind in the service provider's business or any kind of economic ties with the service provider;
- (p) Not to offer any benefit such as free goods or services, employment or sales opportunity to a Principal's staff member in order to facilitate the service provider's business with the Principal;
- (q) Within a period set in the applicable national legislation following separation from service or award of a contract, as the case may be, to refrain from offering employment to any Principal's staff in service and former Principal's staff members who participated in the procurement process and to whom a legal restriction to receive material benefits from or be employed by a service provider which participated in a procurement procedure or restrictions with similar effect applies;
- (r) To promote the adoption of the principles set forth in this Declaration of Service Provider by my potential business partners and promote the implementation of the principles set forth in this document towards own service providers;
- (s) To maintain and create accurate records, annual reports and accounts, and not to alter or forge any of the mentioned in an effort to conceal, misrepresent or the actual information. All of our records, regardless of format, made or received as evidence of a business transaction must fully and accurately represent the transaction or event being documented. All of our records and reports will be retained in accordance with applicable laws and regulations and will be fully auditable;
- (t) Not procure goods, works and services from other service provider:
 - (i) who, or its member of the Management Board or the Supervisory Board or procurator of such service provider, or a person having the right to represent such service provider in activities related to a subsidiary, has been found guilty in any of the following criminal offences by a such punishment prescription of prosecutor or a judgement of a court that has entered into effect and is non-disputable and not subject to appeal:
 - i. bribetaking, bribery, bribe misappropriation, intermediation in bribery, taking of prohibited benefit or commercial bribing;

- ii. fraud, misappropriation or laundering;
 - iii. evading payment of taxes and payments equivalent thereto;
 - iv. terrorism, financing of terrorism, invitation to terrorism, terrorism threats or recruiting and training of a person for performance of terror acts;
- (ii) who, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of an infringement of employment rights which means:
- i. employment of such one or more citizens or nationals of countries, which are not citizens or nationals of the European Union Member States, if they reside in the territory of the European Union Member States illegally;
 - ii. employment of one person without entering into a written employment contract, not submitting an informative declaration regarding employees in respect of such person within a time period laid down in the laws and regulations, which is to be submitted regarding persons who commence work;
- (iii) who, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of infringement of competition rights manifested as a vertical agreement aimed at restricting the opportunity of a purchaser to determine the resale price, or horizontal cartel agreement, except for the case when the relevant authority, upon determining infringement of competition rights, has released the candidate or tenderer from a fine or reduced fine within the framework of the co-operation leniency programme;
- (iv) whose insolvency proceedings have been announced (except the case where a bailout or similar set of measures is applied within insolvency proceedings oriented towards prevention of possible bankruptcy and restoration of solvency of the debtor, in which case I shall evaluate the possibility of such service provider to participate in the tender), economic activity of such service provider has been suspended or discontinued, proceedings regarding bankruptcy of such service provider have been initiated or such service provider will be liquidated;
- (v) who has tax debts in the country where the procurement is organised or a country where such service provider is registered or permanently residing, including debts of State social insurance contributions, in total exceeding an amount which is common threshold in public procurements in the respective country.

Signature:

[insert name, surname and position]