

FRAMEWORK AGREEMENT NO 8/2017-120-6

Riga, November 24th, 2017

FOR THE PROVISION OF EXPERT SERVICES

This Framework agreement (hereinafter, the "Agreement") between:

RB Rail AS, a company organized and existing under the laws of Republic of Latvia, registration No 40103845025, registered address Krišjāņa Valdemāra iela 8-7, Riga, LV-1010, Republic of Latvia (hereinafter, the "**Principal**"), represented by Chairperson of the Management Board Ms Baiba Anda Rubesa and Management Board Member Kaspars Rokens both acting on the basis of the power of attorney No 9/2017-9 (dated 04.09.2017), on the one side,

and

Eirl Gaudry Consultant, a company organized and existing under the laws of France, registration No 515059228, registered address 51 Boulevard Jean Jaures, 37300, Joue Les Tours, France (hereinafter, the "**Service provider**"), represented by Alain Gaudry, acting as Director on the basis of Limited Liability Company EIRL defined by French law n° 2010-658 du 15 June 2010, on the other side,

who are collectively referred to as the "Parties" and separately – as "Party",

WHEREAS:

(A) Core business of the Principal is design, construction and marketing (including branding) of the new fast conventional double track electrified railway line with the maximum design speed of 240 km/h and European standard gauge (1435 mm) on the route from Tallinn through Pärnu Riga Panevezys Kaunas to Lithuanian Polish Border ("Project") financed under the auspices of Connecting Europe Facility ("CEF");

(B) The Principal has organised procurement procedure "Expert Services" (identification No. RBR 2017/10) based on the results thereof the following experts (hereinafter – the "Experts") of the Service provider were accepted to provide expert services for the following Fields of expertise at corresponding hourly rates:

No.	Field of expertise	Name of expert included in a proposal	Hourly rate for the services for a indicated Field of expertise	Total score received in a particular Field of expertise
28.	Railway business development		85	58
30.	1435 mm railway fleet		85	58

(C) Framework agreement is co-financed from the Connecting Europe Facility (CEF), CEF¹ Agreement No INEA/CEF/TRAN/M201[●]/[●], Action No [●],

NOW, THEREFORE, the Parties hereby enter into this Agreement under the terms and conditions below.

¹ Grant Agreement under the Connecting Europe Facility (CEF)-Transport Sector Agreement No INEA/CEF/TRAN/M201[●]/[●]

TERMS AND CONDITIONS

1. SUBJECT OF THE AGREEMENT.....	3
2. AGREEMENT VALUE AND PERIOD.....	4
3. APPOINTMENT OF AN ASSIGNMENT	4
4. PERFORMANCE OF THE AGREEMENT	5
5. RIGHTS AND OBLIGATIONS	6
6. PAYMENTS.....	6
7. REIMBURSEMENT OF TRAVEL EXPENSES AND DAILY ALLOWANCE	7
8. OWNERSHIP AND USE OF THE RESULTS (INCLUDING INTELLECTUAL PROPERTY RIGHTS)	8
9. TECHNICAL, LEGAL AND FINANCIAL CHECKS AND AUDITS	9
10. ON-THE-SPOT VISITS.....	9
11. TERMINATION OF THE AGREEMENT	9
12. FORCE MAJEURE.....	10
13. COMMUNICATION BETWEEN THE PARTIES.....	10
14. EXPERT CHANGE	10
15. CONFIDENTIALITY.....	11
16. EXPERTS' INDEPENDENCE AND ABSENCE OF CONFLICT OF INTEREST	11
17. VISIBILITY REQUIREMENTS.....	11
18. MISCELLANEOUS.....	12
19. ANNEXES	12
20. DETAILS OF THE PARTIES	13

1. SUBJECT OF THE AGREEMENT

- 1.1. This Agreement is entered into within the framework of 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 commercialize the Rail Baltica railway - a new fast conventional double track electrified railway line with the maximum design speed of 240 km/h and European standard gauge (1435mm) on the route from Tallinn through Pärnu-Riga-Panevėžys-Kaunas to Lithuanian-Polish border, with the connection of Kaunas – Vilnius, and related railway infrastructure in accordance with the agreed route, technical parameters, time schedule and budget.
- 1.2. This Agreement sets out the rights and obligations, terms and conditions that apply to the Parties of the Agreement where the Service provider (definition “Service provider” applies also to Expert unless it is specified otherwise) is contracted by the Principal to provide independent expertise for the successful implementation of the Rail Baltica project.
- 1.3. The objective to receive a support from the Service provider for the implementation of Rail Baltica project is not to replace or overlap with the services or tasks to be carried out by particular providers implementing Rail Baltica project through the separate Agreements. However, management team of RB Rail AS seeks for the support from experts to provide an independent professional advice (including in written form) in planning, implementing and monitoring the Rail Baltica Global project.
- 1.4. The Principal intends to have the support from the Service provider throughout the implementation of Rail Baltica project:
 - 1.4.1. Procurement: drafting, reviewing and/or advising on procurements, technical specifications, tender dossiers; reviewing suppliers’ proposals and/or advising procurement commissions during a procurement, studying supplier’s markets;
 - 1.4.2. Contracts’ implementation: review of actual contract implementation status and/or advice on taking further actions; support for independent disputes’ resolution; review and/or advise on design documentation; monitoring contract implementation progress and technical compliance; on-site status reporting during construction contract implementation; design and construction assessment/expertise; provision of independent advice on technical, legal issues; review and/or advice on the documentation provided by a provider of particular contractor;
 - 1.4.3. Commissioning: review and/or report on actual amount of works implemented; review and/or report of the works implemented against the requirements of global parameters of Rail Baltica project, applicable standards and local legislation; review and/or report on the works implemented against the maintenance requirements; review and/or report on the data to be provided during the commissioning process;
 - 1.4.4. Feasibility studies’ preparation: reviewing reports and/or advising on taking further actions based on the review results; preparing small scale studies on a particular subject matter; economic analysis and related calculations;
 - 1.4.5. Global Rail Baltica project management: review and/or advice on the fulfilment of the global Rail Baltica project definition, technical parameters, standards, technical specifications for interoperability, global parameters of Rail Baltica project; assistance to the Principal on various Rail Baltica project implementation matters; carrying out small and medium scale studies, peer review and similar tasks; market research; technical, financial and legal checks and audits, as well as on-the-spot visits and/or audits to the sites and premises where the activities implemented within the Rail Baltica project are or are planned to be carried out; participation and/or leading the meetings (preparing minutes thereof), and/or making the presentations on the subjects concerned.
- 1.5. The purpose of the Agreement is to define the terms and conditions under which the Service provider shall provide expert services to the Principal **on-demand** basis. The Agreement is framework-based and covers no obligation on the Principal to appoint the Service provider to provide services.
- 1.6. For every assignment, a separate assignment order (based on Draft for Assignment order included in Annex No. 3) (hereinafter – Assignment order) shall be issued by the Principal and confirmed by the Service provider.
- 1.7. The Service provider shall provide services according to only confirmed Assignment Order, the conditions thereof become binding to both parties: the Service provider and the Principal.

- 1.8. The terms and conditions of the Agreement do not constitute an employment agreement or relationship with the Principal.

2. FRAMEWORK AGREEMENT VALUE AND PERIOD

- 2.1. The Contracts under the Framework agreement is on-demand based with no fixed work-load and/or fixed overall value.
- 2.2. The amount, estimated by the Principal at the date of the Agreements for the procurement of expert services through overall framework contracts is: 500 000 Eur.
- 2.2.1. However, this does not bind the Principal to purchase expert services through the Framework agreement for the estimated amount.
- 2.2.2. The Parties shall take into consideration that the framework agreement will be concluded with all the tenderers who have been awarded the right to enter into the framework agreement in each Field of expertise, thus the amount indicated in paragraph 2.2. of the Agreement applies to the whole amount of framework agreement.
- 2.3. Agreement period is 18 months after the Commencement date.
- 2.4. Agreement terminates after Agreement period expires or after the all Assignment orders are fully completed by the Service provider and approved by the Principal.

3. APPOINTMENT OF AN ASSIGNMENT

- 3.1. In order to receive expert services the Principal shall appoint the Service provider with a particular assignment (also referred to as – contract). Assignment shall be appointed through a direct award of the Service provider or by conducting a mini-competition between all service providers whose experts are included in the same Field of expertise.
- 3.2. The selection between the direct award or conduction of mini-competition shall remain within the discretion of the Principal considering the specifics and urgency of a particular assignment to be implemented.
- 3.3. **Direct award.**
- 3.3.1. The Principal invites the Service provider to implement an assignment by sending an Assignment order (as specified in Draft Assignment order - Annex No. 3). Direct award invitation shall be sent to the Service provider only if the expert thereof has received the highest score in a particular Field of expertise during the procurement process;
- 3.3.2. After receiving an invitation, as soon as possible but not later than the end of next business day the Service provider shall respond by stating its expert's availability to implement an assignment. In case the Service provider rejects the invitation or fails to respond within the required time period, Principal reserves the right to invite another service provider whose expert was the next in a row of highest scores in the same Field of expertise;
- 3.3.3. After invitation to implement an assignment (including corresponding Assignment order) is accepted by the Service provider, the conditions set in the Assignment order become binding to the Parties.
- 3.4. **Mini-competition.**
- 3.4.1. The Principal invites all service providers whose experts are included in the same Field of expertise, to implement an assignment by sending an Assignment order (as specified in Draft Assignment order - Annex No. 3);
- 3.4.2. After receiving such invitation, within 5 business days the Service provider shall respond by sending its proposal to implement an assignment. Failing to respond to the invitation within the required time period shall be considered as rejection to participate in a mini-competition;
- 3.4.3. Mini-competition proposals received from all service providers are evaluated and ranked. The most economically advantageous proposal shall be awarded for the implementation of an assignment;
- 3.4.4. The Principal shall inform about the results of mini-competition only those service providers who sent the proposals;

- 3.4.5. Service provider with most economically advantageous proposal shall be invited to accept the assignment order. After this invitation to implement an assignment (including corresponding Assignment order) is accepted by the Service provider, the conditions set in the Assignment order and proposal of mini-competition become binding to the Parties.
- 3.5. The Assignment order shall include details of the services to be carried out by the Service provider (as specified in Draft Assignment order - Annex No. 3), i.e. required Field of expertise, estimated workload, starting date, deadline etc.
- 3.6. The Principal reserves the right not to directly award the Service provider with Assignment order nor to invite the Service provider to participate in a mini-competition based on the failure to deliver services of previous Assignment order within the deadline set in thereof.
- 3.7. The Service provider has a right to reject Principal's invitation to implement an assignment only in exceptional cases related to the availability of an expert involved, or when the Service provider envisages that the implementation of a particular Assignment order would result in a conflict with requirements set in the Framework agreement. The decision of the Service provider to reject the Principal's invitation to implement an assignment shall be provided in writing by stating the actual reasons for such decision.

4. PERFORMANCE OF THE AGREEMENT

- 4.1. The Service provider must perform the Agreement in compliance with its provisions and all legal obligations under applicable EU, international and national law.
- 4.2. The Service provider must fully implement the assignments set in a particular Assignment order, within the set deadlines and to the highest professional and ethical standards.
- 4.3. The Service provider shall carry out the tasks, prepare and provide all documents, reports, minutes of the meetings and any other information material (i.e. provide Deliverables²) specified in an Assignment order.
- 4.4. The Principal reserves the right to ask the Service provider (or its corresponding expert) to provide an intermediate results (deliverables) of Assignment order in short notice, in order to check the progress of the implementation of an Assignment order. The Service provider (or its corresponding expert) within the short notice period shall provide the Principal with the information, status of the progress including proof of the thereof, such as intermediate documentation, reports, etc. This confirmation does not mean the implementation of any additional assignments (reports etc.), rather confirming the progress of the implementation of Assignment order. Failing to do so within the short notice period or by providing the information that it is obvious for the Principal that assignment would not be completed within specified time in Assignment order, the Principal reserves the right to cancel the implementation of Assignment order and proceed with the procedures for terminating the Agreement.
- 4.5. As a part of Deliverables, the Expert shall prepare information material in a fully comprehensive and understandable³ way, by providing explicit and full source details (initial information, evidences etc.) used for the analysis and provision of Deliverables. The Deliverables shall include detailed explanation of methods employed that lead to the solutions delivered by the Expert.
- 4.6. The Principal shall have no responsibility over any content of Deliverables provided by the Expert.
- 4.7. Approval of the Deliverables (by issuing Deliverables' taking-over certificate according to the draft in Annex No. 4) of the corresponding Assignment order by the Principal shall not mean the approval of the outcome results (reports, summary, advice, decisions etc.) delivered by the Expert. Expert shall bear full responsibility of the Deliverables provided by him/her.

² Definition "Deliverables" shall cover all tasks (including, but not limiting to, actions and information material) to be carried out by the Expert in order to fully implement the corresponding Assignment order.

³ The information provided in the Deliverables shall be understandable to the average-level engineer with no particular experience in a specific topic concerned.

5. RIGHTS AND OBLIGATIONS

- 5.1. The Service provider shall be responsible for the availability of its experts implementing particular Assignment orders.
- 5.2. The Service provider shall be responsible for ensuring that its experts included in the Agreement fulfil the requirements thereof as long as it comes to experts' responsibility.
- 5.3. The Expert shall remain fully responsible for the results (including Principal's losses incurred due to such results) of its services after the completion of an Assignment order. Any additional expenses arisen due to the correction of the unacceptable outcome results shall be covered solely by the Service provider. The Principal reserves the right to request the Expert to correct the results of its services regardless whether it is necessary during the implementation of an Assignment order or after it was completed and approved.
- 5.4. No subcontracting in any kind or form is allowed for an Assignment order. Only the Expert specified in an Assignment order is allowed to implement the tasks defined therein.
- 5.5. The Service provider must keep records and other supporting documentation (original supporting documents) as evidence that the contract is performed correctly and the expenses were actually incurred. These must be available for review upon the Principal's request.
- 5.6. The Principal is obliged to pay for the services of the Service provider in accordance with the Contract and based on the approved Deliverables of the Expert pursuant to the payment request.

6. PAYMENTS

- 6.1. Service provider must make a request for payment to obtain its remuneration for services and reimbursement of expenses agreed in the Agreement. After acceptance of Deliverables by the Principal, within 30 calendar days, the Service provider must submit the payment request.
- 6.2. The Principal shall make the payment after 30 calendar days from the date on which the Principal receives properly prepared payment request on the accepted Deliverable.
- 6.3. The Principal may suspend the payment at any time if:
 - 6.3.1. the Deliverable is not accepted by the Principal;
 - 6.3.2. payment request supporting documents are missing;
 - 6.3.3. the payment request is incorrect;
 - 6.3.4. the Principal has to make further checks to verify details of payment request.
- 6.4. The Principal shall reject the payment request (parts of) if it does not fulfil the conditions of the Contract.
- 6.5. The Principal may reduce the fee if the expert is in breach of any of its other obligations under the Contract (including unsatisfactory implementation of any Assignment orders). The Principal must formally notify the expert of its intention, include the reasons why, and invite the Service provider to submit any observations within 30 days of receiving notification. If the Principal does not accept these observations, it will formally notify confirmation of the rejection or reduction.
- 6.6. Payments are subject to the Principal's approval of Deliverable(s) or report(s), and of the payment request(s). Approval does not mean recognition of compliance, authenticity, completeness or correctness of content.
- 6.7. The Principal may at any point suspend the payment deadline, if a request for payment cannot be processed because it does not comply with the Contract's provisions. The Principal must formally notify the Service provider of the suspension and the reasons for it. After the condition for suspending the payment deadline is mitigated, the suspension will be lifted — and the remaining payment period will resume.
- 6.8. If the payment deadline has been suspended due to the non-compliance with the Contract's conditions and the Service provider fails to rectify the outcome of the corresponding Assignment order within the reasonable period of time, the Principal may also terminate the Contract.

- 6.9. In the event of failure by the Service provider to meet any deadline and/or supply any Deliverable by the date stipulated in the particular Assignment order, the amount of fee payable by the Principal to the Service provider under the corresponding Assignment order with respect to the relevant time period shall be reduced by 0.1 % of the amount of such fee for each day of delay.
- 6.10. Payments will be made in euros.
- 6.11. The Service provider's invoices shall contain the following Principal's and Service provider's details and details about the Agreement:

Principal	RB Rail AS
Registration No	40103845025
VAT payer's No	LV40103845025
Address	K.Valdemāra iela 8-7, Riga, Latvia, LV-1010

Service provider	EIRL GAUDRY CONSULTANT
Registration No	515 059 228
VAT payer's No	FR 94 515 059 228
Address	51 Boulevard Jean Jaurés, 37300 Joué lès Tours, France
Name of Bank	BNP PARIBAS - Agence JOUE LES TOURS (01057)
Bank Code	BIC: BNPAFRPPXXX
Bank Account No	IBAN FR7630004010570001009201105
Subject:	For the provision of expert services according to the Expert services Agreement No 8/2017-120-6 (CEF Agreement No INEA/CEF/TRAN/M201[●]/[●]), Toms Pelčers, Identification number RBR 2017/10

- 6.12. The Service provider shall send the invoice to the Principal electronically to the following e-mail address: invoices@railbaltica.org. The Principal shall review the invoice to verify whether it contains all necessary requisites.

7. REIMBURSEMENT OF TRAVEL EXPENSES AND DAILY ALLOWANCE

- 7.1. The Principal shall reimburse the travel expenses incurred by the Service provider during the provision of services only in the following cases:
- 7.1.1. travel expenses are indicated and agreed in the corresponding Assignment order;
 - 7.1.2. travel expenses incurred for the implementation of the corresponding Assignment order;
 - 7.1.3. travel expenses are justified by documents.
- 7.2. In case the Principal for the implementation of a particular Assignment order requires the Expert to travel from his/her place of residence or Service provider's office (whatever is applicable) for more than 200 km one way, the Principal shall reimburse incurred travel⁴ expenses and pay daily allowances (only when the implementation of an assignment requires overnight stay) for the Expert included in a particular Assignment order.
- 7.3. For the implementation of a particular Assignment order where traveling is included, Expert shall ensure average level economical travel and accommodation expenses.
- 7.4. The following travel expenses are subject to reimbursement:
- 7.4.1. Less than 400 km one way distance bus travel;

⁴ The point of departure shall be limited to the location in Europe.

- 7.4.2. Less than 400 km one way distance second-class rail travel;
- 7.4.3. More than 400 km one way distance economy class air travel;
- 7.4.4. A travel expense (a return ticket) shall not exceed 500 EUR. Travel expense exceeding 500 EUR on return ticket will be reimbursed at 500 EUR max.
- 7.5. In case of assignments where an overnight stay is included the Principal shall pay the daily allowance according to the following rates depending on the country of assignment execution⁵:

Destination	Daily allowance (EUR)	Destination	Daily allowance (EUR)
Austria	225	Italy	230
Belgium	232	Latvia	211
Bulgaria	227	Lithuania	183
Croatia	180	Luxembourg	237
Czech Republic	230	Malta	205
Cyprus	238	Netherlands	263
Denmark	270	Poland	217
Estonia	181	Portugal	204
Finland	244	Romania	222
France	245	Slovak Republic	205
Germany	208	Slovenia	180
Greece	222	Spain	212
Hungary	222	Sweden	257
Ireland	254	United Kingdom	276

- 7.6. The daily allowance is a flat rate to cover expenditure, including accommodation, meals, local transport, sundry expenses, as well as accident insurance.
- 7.7. The Principal reserves the right to suspend (by providing reasonable grounds) the reimbursement of travel payments in the following situations:
- 7.7.1. Traveling costs incurred are clearly higher than the average level of travel and costs of the corresponding region, country or city;
- 7.7.2. Costs incurred are not related to the implementation of a particular assignment order;
- 7.7.3. Costs include additional expenses not related to the implementation of a particular assignment order.
- 7.8. Upon agreement in a corresponding Assignment order, the Principal shall consider the reimbursement of the following additional expenses incurred by the Service provider:
- 7.8.1. Costs for renting the measurement equipment, carrying out laboratory investigations required to implement the corresponding Assignment order;
- 7.8.2. Expenses incurred as a result of special instructions specified in the corresponding Assignment order, in justified cases, on presentation of supporting documents.
- 7.9. Unless otherwise agreed in an Assignment order, the point of departure shall be either official address of the Service provider (specified in the Agreement) or residence address of the Expert included in the corresponding Assignment order.
- 8. OWNERSHIP AND USE OF THE RESULTS (INCLUDING INTELLECTUAL PROPERTY RIGHTS)**
- 8.1. The Principal will fully and irrevocably acquire the ownership of the results under this Agreement including any rights in any of the results listed in this Agreement, including copyright and other intellectual or industrial property rights, and all technological solutions and information contained therein, produced in performance of the Agreement.
- 8.2. The Principal will acquire all the rights from the moment the Deliverables (results) are delivered by the Service provider.

⁵ Based on the rates provided in <https://ec.europa.eu/europeaid/node/116255>

9. TECHNICAL, LEGAL AND FINANCIAL CHECKS AND AUDITS

- 9.1. By giving a written notice 5 (five) business days in advance, but in case of an unannounced check or audit without an advance notice, the Principal may carry out technical, legal and financial checks and audits in relation to the implementation of the Agreement.
- 9.2. Checks and audits may be carried out either directly by the authorized staff of the Principal or by any other outside body authorised to do so on Principal's behalf.
- 9.3. Information and documents obtained in the framework of checks or audits shall be treated on a confidential basis. Principal shall ensure that its staff and any outside body authorised by the Principal be bound by the confidentiality obligation.
- 9.4. Service provider shall provide to the performer of the check or audit or any other outside body authorised access to all the information and documents, including information in electronic format, which is requested by the performer of the check or audit or any other outside body authorised for the performance of the check or audit and which relates to the implementation of the Agreement, as well as shall allow the performer of the check or audit or any other outside body authorised by it copying of the information and documents with due respect to the confidentiality obligation.

10. ON-THE-SPOT VISITS

- 10.1. By giving a written notice 5 (five) business days in advance, but in case of an unannounced check 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.
- 10.2. On-the-spot visits may be carried out either directly by the authorised staff of the Principal or by any other outside body authorised to do so on behalf of the Principal. Information provided in the framework of on-the-spot visits shall be treated on confidential basis. The Principal shall ensure that any outside body authorised shall be bound by the confidentiality obligation.
- 10.3. Service provider shall provide to the performer of the on-the-spot visit or any other outside body authorised 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 outside body authorised 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 outside body authorised copying of the information and documents, with due respect to the confidentiality obligation.
- 10.4. By virtue of Council Regulation (Euratom, EC) No 2185/961 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 and Regulation (EU) No 883/20132 of the European Parliament and the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities. Where appropriate, OLAF findings may lead to criminal prosecution under national law.

11. TERMINATION OF THE AGREEMENT

- 11.1. If either party breaches the Agreement, the other may terminate the Agreement if the breaching party does not cure the breach within 20 (twenty) business days of written notice of same. Termination shall be without prejudice to any rights which may have been accrued to either party before termination.
- 11.2. The Principal reserves the right to terminate the Agreement within 10 (ten) business days after sending a written notice to the Service provider to rectify poor Deliverables due to the following reasons and Service provider fails to rectify the Deliverables within a period set.:
 - 11.2.1. The Service provider has committed substantial errors, irregularities or fraud, or is in serious breach of its obligations under the procurement procedure or under the Agreement, including false declarations and obligations relating;
 - 11.2.2. The Service provider breaches conditions of the Agreement;

11.2.3. Expert poorly performs his/her tasks defined in the corresponding Assignment order.

11.3. The Principal reserves the right to terminate the Agreement for the reasons when services of the Service provider are no longer required.

11.4. The Principal reserves the right to terminate a particular Assignment order for the reasons when services specified thereof are no longer required. In such a case the costs incurred by the Service provider up to the notification of the termination of an Assignment order are subject to the reimbursement by the Principal.

12. FORCE MAJEURE

12.1. 'Force majeure' means any situation or event that:

- prevents either Party from fulfilling their obligations under the Agreement;
- was unforeseeable, exceptional and beyond the Parties' control;
- was not due to error or negligence on their part (or on the part of third parties involved in implementing the action);
- proves to be inevitable in spite of exercising due diligence.

12.2. A force majeure must be immediately and formally notified to the other Party.

12.3. Notification must include details of the situation's nature, likely duration and expected effects.

12.4. The Party faced with a force majeure will not be held in breach of its Agreement obligations if the force majeure has prevented it from fulfilling them.

13. COMMUNICATION BETWEEN THE PARTIES

13.1. Communication under the Agreement (e.g. deliverables, information, requests, submissions, formal notifications, etc.) must:

- be carried out in English;
- be carried out between the contact persons specified in the corresponding Assignment order;
- be made in writing (including electronic form); and
- bear the Agreement's and Assignment order's number.

13.2. During the implementation of the Assignment order, the communication via e-mail shall be executed between the persons indicated in the corresponding Assignment order. Additionally, all copies of those e-mail messages shall be sent also to Parties' e-mail addresses specified in the Agreement: for Principal: procurement@railbaltica.org, for Service provider: alaingaudry1@gmail.com.

13.3. Communications by e-mail are deemed made when they are sent by the sending Party and receipt is confirmed by the receiving Party, unless the sending Party receives a message of non-delivery. Sending Party is responsible to get the confirmation that a message (with all its contents) sent via e-mail was received.

14. EXPERT CHANGE

14.1. Only in exceptional cases Experts included in the Agreement can be replaced by signing an amendment to the Agreement.

14.2. The proposed Expert's qualifications must be equivalent or better than the replaced Expert. The hourly rate of the proposed Expert must be the same as the one of the replaced Expert.

14.3. The Principal reserves the right to request the Service provider to replace an expert in case of any of the following reasons:

- 14.3.1. repeated careless performance of duties;
- 14.3.2. incompetence or negligence;
- 14.3.3. non-fulfilment of obligations or duties stipulated in the Agreement;
- 14.3.4. poor knowledge of English language (unsatisfactory presentation, writing skills in English);

14.3.5. termination of employment relations with the Service provider.

- 14.4. Failing of the Service provider to propose another expert with equivalent or better qualifications within 10 (ten) business days period might lead to the termination of the Agreement.
- 14.5. The Principal shall approve or reject the replacement of an expert as soon as possible, but no later than within 5 (five) business days after the receipt of all information and documents necessary for a decision in accordance with the provisions in this Agreement.

15. CONFIDENTIALITY

- 15.1. Each Party undertakes to keep confidential the terms and conditions of the Agreement and not to use or disclose any and all information of any kind or nature whatsoever, whether written or oral or whatsoever form, including, but not limited to, financial information, trade secrets, customer lists, any and all information and documents related to the negotiations and the subsequent performance of the Agreement between the Parties, which is not known to the general public (hereinafter - **Confidential Information**).
- 15.2. A Party has the right to disclose Confidential Information only if it is explicitly required to do so by law or pursuant to any order of court or other competent authority or tribunal or if such disclosure has been agreed by the other Party in writing.
- 15.3. The Principal reserves the right to request the Expert to sign a confidentiality agreement for the implementation of a particular Assignment order.
- 15.4. The confidentiality obligation shall not expire in time.

16. EXPERTS' INDEPENDENCE AND ABSENCE OF CONFLICT OF INTEREST

- 16.1. Experts are expected to ensure that their agreement and professional obligations in particular with regard to confidentiality, independence and absence of conflict of interests are well understood and upheld throughout and after any assignment implementation.
- 16.2. Experts during the implementation of the particular Assignment order shall remain independent from any activities of other parties, companies, or organisations whatsoever directly or indirectly taking a part in the implementation of Rail Baltica project, and shall avoid any legally binding relations or any other kind of relations with thereof.
- 16.3. During the provision of services, Experts shall provide independent view based on their expertise, education and experience. Experts cannot show nor indicate any opinion linked to a particular supplier, company, organisation, institution whatsoever.
- 16.4. No representation of any region, country, company, personal interests shall be shown by the Experts, only professional and independent attitude.
- 16.5. Experts shall provide services not as representatives of any company, organisation or institution (regardless their past, current and possible future employment or participation in thereof) but independently, ensuring that it is fully assured in terms of their current situation of professional activities.

17. VISIBILITY REQUIREMENTS

- 17.1. The Service provider is obliged to comply with the following visibility requirements:
- 17.1.1. Any reports, brochures, other documents or information connected with Services which the Service provider produces and submits to the Principal, the Beneficiary, any other third person or makes publicly available must include the following:
- (i) a funding statement stating that Services is the recipient of the funding from the CEF: "Rail Baltica is co-financed by the European Union's Connecting Europe Facility";
 - (ii) (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>;

(iii) the European Union flag.

17.1.2. Requirements set in Sections 17.1.1(i) and 17.1.1(iii) can be fulfilled by using the following logo:



Co-financed by the European Union
Connecting Europe Facility

If the Service provider shall use this logo, the Service provider 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;

17.1.3. The Service provider is obliged to comply with the latest visibility requirements set by the European Union. For that purpose, the Service provider 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>.

18. MISCELLANEOUS

- 18.1. The Agreement is done in two copies in English.
- 18.2. Any amendments to the Agreement shall be valid if made in writing and signed by the respective authorized persons of both Parties. Any amendments must not make changes to the Agreement that might alter the initial conditions of the procurement procedure or result in unequal treatment of tenderers participated in this procurement.
- 18.3. If at any time, any clause of the Agreement becomes illegal, invalid or unenforceable, in any respect, under the applicable law, neither the legality, validity nor enforceability of the remaining provisions of the Agreement shall in any way be affected or impaired thereby. The Parties shall, in good faith, utilize their best efforts to replace any illegal, invalid or unenforceable clause with such that is legal, valid and enforceable and comes as close as possible to the invalid clause as regards its economic intent.
- 18.4. The Principal cannot be held liable for any damage caused or sustained by the Service provider or a third party during or as a consequence of performing the Agreement, except in the event of the Principal's wilful misconduct or gross negligence.
- 18.5. The Agreement shall be governed by the substantive law of the Republic of Latvia, excluding the application of its conflict of law rules.
- 18.6. Any dispute, controversy, or claim arising out of or in connection with the Agreement, or the interpretation, execution, performance, breach, termination or (in)validity thereof, shall be settled in the courts of Latvia.

19. ANNEXES

Annex No. 1 – Terms of reference on 11 pages;
Annex No. 2 – Tenderers' Proposal (Expert applications) on 27 pages;
Annex No. 3 – Draft Assignment order on 1 page
Annex No. 4 – Draft Deliverables' taking-over certificate on 1 page

20. DETAILS OF THE PARTIES