AGREEMENT

on

THE CONTRACTING SCHEME FOR THE RAIL BALTIC / RAIL BALTICA

between

RB RAIL AS

MINISTRY OF ECONOMIC AFFAIRS AND COMMUNICATIONS OF THE REPUBLIC OF ESTONIA

MINISTRY OF TRANSPORT OF THE REPUBLIC OF LATVIA

MINISTRY OF TRANSPORT AND COMMUNICATIONS OF THE REPUBLIC OF LITHUANIA

ESTONIAN TECHNICAL REGULATORY AUTHORITY

RAIL BALTIC ESTONIA OU

EIROPAS DZELZCEĻA LĪNIJAS SIA

LIETUVOS GELEŽINKELIAI AB

RAIL BALTICA STATYBA UAB

30 September 2016

THE PARTIES

(1) **RB Rail AS**, a joint stock company registered in the Commercial Registry of Latvia with No 40103845025, registered address at Gogoļa iela 3, LV-1050, Riga, Latvia, represented by the Chairperson of the Management Board and the Chief Executive Officer, Ms Baiba Anda Rubesa (**RB Rail AS**) and

(2) **Ministry of Economic Affairs and Communications of the Republic of Estonia**, registration No 70003158, registered address at Harju 11, 15072 Tallinn, Estonia, represented by Secretary General, Ms Merike Saks, and

(3) **Ministry of Transport of the Republic of Latvia**, registration No LV90000088687, registered address at Gogoļa iela 3, LV-1743, Riga, Latvia, represented by State Secretary, Mr Kaspars Ozoliņš, and

(4) **Ministry of Transport and Communications of the Republic of Lithuania**, registration No 188620589, registered address at Gedimino ave. 17, 01505 Vilnius, Lithuania, represented by Minister, Mr Rimantas Sinkevičius, and

(5) **Estonian Technical Regulatory Authority**, registration No 70003218, registered address at Sõle 23 A, Tallinn 10614, Estonia, represented by Director General, Mr Raigo Uukkivi, and

(6) **Rail Baltic Estonia OÜ**, registration No 12734109, registered address at Narva mnt 5, Tallinn 10117 Estonia, represented by Member of the Management Board, Mr Indrek Orav, and

(7) **Eiropas dzelzceļa līnijas SIA**, a limited liability company registered in the Commercial Registry of Latvia with No 40103836785, registered address at Gogoļa iela 3, LV-1050, Riga, Latvia, represented by Member of the Management Board, Mr Dins Merirands, and

(8) **Akcinė bendrovė Lietuvos geležinkeliai**, a public limited liability company registered with the Register of Legal Entities of the Republic of Lithuania, company code 110053842, registered address Mindaugo g. 12, Vilnius, Lithuania, represented by Director General, Mr Stasys Dailydka, and

(9) **UAB "Rail Baltica statyba"**, a private limited liability company registered with the Register of Legal Entities of the Republic of Lithuania, company code 303227458, registered address Mindaugo g. 12, Vilnius, Lithuania, represented by Director, Mr Dainius Budrys,

for the purposes of this Agreement hereinafter also referred to as the **"Party"** or the **"Parties"**,

WHEREAS

(A) Rail Baltic / Rail Baltica is a new fast conventional double track electrified railway line with the maximum design speed of 240 km/h and European standard gauge (1435mm) on the route from Tallinn through Pärnu-Riga-Panevezys-Kaunas to Lithuanian-Polish border, with the connection of Vilnius-Kaunas, thus, located in the territories of the Republic of Estonia, the Republic of Latvia and the Republic of

Lithuania.

(B) Implementation of the Rail Baltic / Rail Baltica project is financed from the Connecting Europe Facility and the co-funding of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania and, if necessary and available, from other sources of financing.

(C) RB Rail AS has been established with the main business of the company being planning, designing, construction and marketing (including branding) of the Rail Baltic / Rail Baltica railway line.

(D) It is common understanding of the Parties that the Rail Baltic / Rail Baltica railway infrastructure shall ultimately belong to the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania, respectively.

(E) Rail Baltic / Rail Baltica project is implemented by multiple State institutions and private persons in the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania which poses financial, legal and practical challenges given the fact that the Rail Baltic / Rail Baltica railway infrastructure must be interoperable.

(F) Wishing to maximise the economic efficiency via consolidation of procurements with potential economies of scale, ensure full and optimum interoperability, quality control and efficient supervision and put in place the best practise procurement model to ensure transparency and minimise corruption risks by putting a single organization, the joint venture RB Rail AS, in charge of purchasing those elements of the Rail Baltic / Rail Baltica railway infrastructure, and associated studies, plans and designs, which are either for common benefit or which are crucial to the entire Rail Baltic / Rail Baltica railway infrastructure.

(G) Acknowledging that RB Rail AS is best suited for performing procurements which are for the benefit of several or all of the Parties, but respecting at the same time the legal obligations which each of the Parties is subjected to in accordance with their national laws, including, in the tax field and the field of public and utility sector procurements.

(H) Wishing to use to the maximum extent possible the concepts of the central purchasing body and the joint procurement which are defined in the Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 On Public Procurement and Repealing Directive 2004/18/EC and the Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 On Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors and Repealing Directive 2004/17/EC.

(I) Wishing to save resources and to minimise the risks by using common procurement standards and guidelines, procurement document templates and a common minimum set of requirements for the qualification of suppliers and economic operators, as well as internationally acknowledged standard contractual terms, such as developed by the International Federation of Consulting Engineers (FIDIC).

(J) Considering it necessary to minimise the risks to the construction of the Rail Baltic / Rail Baltica railway infrastructure by purchasing designing and constructing the railway infrastructure together (design and build contract) where appropriate and rational.

(K) Therefore willing to agree on the following responsibilities of the Parties for

procuring necessary supplies, services and works for the Rail Baltic / Rail Baltica project.

1. DEFINITIONS

1.1. The Parties agree that in this Agreement the words and phrases are used in their ordinary meaning which would be ordinarily attributed to such words and phrases by a legal professional in the United Kingdom, except the following words and phrases have the following meaning:

1.1.1. **"Beneficiary"** has the same meaning as in Article 2(10) of the Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 and in the subsequent legal acts governing the use of European Union funding sources in the next Multiannual Financial Frameworks.

1.1.2. **"Central Purchasing Body"** has the same meaning as in Article 2(1)(16) of the Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 On Public Procurement and Repealing Directive 2004/18/EC and Article 2(12) of the Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 On Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors and Repealing Directive 2004/17/EC.

1.1.3. **"Commercial Dispute"** means a dispute between two or more Parties the subject-matter of which is one of the following:

(a) the interpretation or application of this Agreement;

(b) claims on ownership or possession rights over property;

(c) other claims of monetary nature, such as but not limited to claims for payment of invoices, debts or compensation of losses and damages, and any ancillary claim.

1.1.4. **"Consolidated Preliminary Technical Design"** means a design of the railway (for the entire line) in pre-construction phase, which is based on national level Environmental Impact Assessment studies, preliminary design and spatial planning studies, complies with Technical Specifications of Interoperability and Design Guidelines of the railway. The Consolidated Preliminary Technical Design is a basic prerequisite for starting the design phase (including obtaining a building/construction/design permit to start design works). A Consolidated Preliminary Technical Design result(s) usually will contain a situation plan (on a scale from 1:1000) with the existing and planned rail area, the description and drawings of major structures and technical solutions for all railway subsystems on a conceptual level of detail, the design task for engineers, the textual description of the railway and the structures, planned construction site and works.

1.1.5. **"Consolidated Procurement"** means a procurement conducted jointly by several contracting authorities in the meaning of Article 39(4) of the Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 On Public Procurement and Repealing Directive 2004/18/EC and several contracting entities in the meaning of Article 57(4) of the Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 On Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors and

Repealing Directive 2004/17/EC.

1.1.6. **"Cross-Border Track and Track Bed Sections"** a section of the railway on a cross-border section in the meaning of Regulation 1315/2013 which is located between two closest to the state border railway passing loops (or existing or planned railway stations) on each side of the border with an approximate distance of 50 km between passing loops (approximately 15-25 km on each side of the border). According to Technical standards and specifications Manual of Rail Baltic/Rail Baltica Railway Article 34 "Distance between passing loops approximately 50 km. The passing loops are on both sides of the main track. The passing loop location shall be considered with the view of regional development (regional passenger and freight traffic).

1.1.7. **"Design Guidelines"** means a set of predefined and standardized technically and economically justified engineering and design solutions for Rail Baltic / Rail Baltica Railway Infrastructure to be applied at design, construction and operation phases.

1.1.8. **"Dispute Resolution Committee"** means the committee established in accordance with Clause 9.3of this Agreement.

1.1.9. **"Detailed Technical Design"** means a final stage of the design process in accordance with national construction law / building act regulations and it gives right to start construction works. It is a set of documents (including drawings in 3D model) which clearly and precisely shows the routes of the railways and all infrastructure objects and facilities and has a detailed design of all scope of the project. Includes the following: the documents required to start the detailed technical design, geological data of the area in question, textual description of the technical requirements for the useageusage of the railway, includes a description on the main use of the railway, design and design details on rail superstructures, railway map and cross-sections, rail substructure and cross-sections, drainage systems, bridges, overpasses, culverts, railway tunnels, passenger platforms, road and pedestrian tunnels, anti-noise fences, electrical and contact line network facilities, signalling to the extent applicable, communication, control and IT systems, architectural and engineering details for the facilities (site plans on a scale from 1:500 or more detailed), site network plans on a scale from 1:500 or more detailed, landscaping plans and height map of the area, road transport and pedestrian organization scheme, designed and detailed shell and core structure, designed and detailed fit-out, detailed technical specification for works and material, labour quantity estimates, estimated costs for all works in detail.

1.1.10. **"Global Project"** means all the activities undertaken by the Parties in order to build, render operational and commercialize the Rail Baltic / Rail Baltica railway and related Railway Infrastructure in accordance with the agreed route, technical parameters and time schedule.

1.1.11. **"Implementing Body"** has the same meaning as in Article 2(11) of the Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 and in the subsequent legal acts governing the use of European Union funding sources in the next Multiannual Financial Frameworks.

1.1.12. **"Master Design"** means a first stage of design following national construction law / building act regulations. A Master Design aims at setting a consolidated approach towards Detailed Technical Design by considering all legal requirements set out in

national construction law / building act regulation and following the established Design Guidelines for the railway. The result of Master Design is a set of documents (incl. drawings in 3D model) which clearly shows the scope of the project, includes a situation plan with an accurate placement of the railway, main signalling, contact line and electrical network details. The scope of this set has to be wide and precise enough so that the main details and the main requirements for precise detalization are clear.

1.1.13. **"Rail Baltic / Rail Baltica railway"** means a new fast conventional double track electrified railway line with the maximum design speed of 240 km/h and European standard gauge (1435mm) on the route from Tallinn through Pärnu-Riga-Panevezys-Kaunas to Lithuanian-Polish border, with the connection of Kaunas - Vilnius.

1.1.14. **"Local Facility"** means geographically limited parts of railway infrastructure with extended structural or functional elements (terminals, service facilities, roads, major crossings and bridges etc) which are related or needed to ensure a safe and smooth operation of the railway. Additional explanation:

Local facilities are:

(a) a passenger terminal, including passenger stations,

(b) a freight terminal including railway station,

(c) a rolling stock maintenance facility;

(d) an infrastructure maintenance facility.

Railway station is a part of a railway containing necessary sidings and necessary equipment, which allow for performing train traffic organization (change of direction, overtaking, crossing) and commercial (passenger exchange, freight operations, etc.) operations. The border of a railway station is a station border (an entry signal or a border sign).

1.1.15. **"Railway Infrastructure"** has the same meaning as an identical term in the Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast), as well as it includes freight and passenger terminals and infrastructure and rolling stock maintenance facilities and the ground underneath them and the airspace above them to the extent that the national legislation permits the ownership of the ground and the airspace.

1.1.16. **"Shareholders' Agreement"** means Shareholders' Agreement relating to RB Rail AS between OÜ Rail Baltic Estonia, SIA "Eiropas dzelzceļa līnijas" and UAB "Rail Baltica statyba", dated 28 October 2014.

1.1.17. **„Shareholders"** Shareholders of RB Rail AS: OÜ Rail Baltic Estonia, SIA „Eiropas dzelzceļa līnijas" and UAB „Rail Baltica statyba".

1.1.18. "**Railway Urban Node Section**" means part of the railway located in an urban environment in an urban node usually having one or more Local Facilities. For Rail Baltic / Rail Baltica railway there are three urban nodes – Riga (LV), Tallinn (EE), Vilnius (LT) which are listed in regulation 1315/2013 - and Kaunas (LT). Railway Urban Node Section borders are defined taking into account their funcional specifities and are showed in the consolidated preliminary design.

2. SUBJECT MATTER

2.1. This Agreement is concluded in order to agree on the following aspects which are related to the Global Project until its completion:

2.1.1. Division of responsibilities between the Parties for procuring certain goods, services and works required for the implementation of the Global Project;

2.1.2. Rules governing the procurement procedures;

2.1.3. Rules governing the conclusion of the contracts as a result of procurement;

2.1.4. Rules governing the execution of the contracts;

2.1.5. Rules governing the payment for the results, ownership and accounting of the results.

2.2. The Parties shall adopt all necessary decisions and shall take all necessary actions within their authority, as well as shall initiate adoption of all necessary decisions and taking of all necessary actions which are within the authority of other State or Municipal institutions or companies, in order to implement the principles established in this Agreement, including but not limited to plan, request and allocate the funding, issue the powers of attorney, adopt the necessary decisions, initiate adoption of the necessary legislative and administrative acts.

3. RB RAIL AS PROCUREMENT

3.1. Services

3.1.1. RB Rail AS shall procure in its own name from the funds placed into its disposal for the purpose of constructing the Rail Baltic / Rail Baltica railway, its own funds (including the funds invested by the shareholders in its share capital, loans or otherwise and financing received through the Connecting Europe Facility) and on its own behalf Global Project business development, marketing, branding and communication activities, while leading and coordinating the implementation of activities of a similar kind undertaken by the other Parties.

3.1.2. RB Rail AS shall be the Central Purchasing Body of all Parties for procurement of studies, plans and designs for Global Project, in particular but not limited to:

(a) Design elements for the Global Project, in particular Design Guidelines, Consolidated Preliminary Technical Design, Master Design and Detailed Technical Design; and

(b) Studies for the Global Project, in particular Supplier Market and Resources Study (raw materials and key components), Technical studies (related to the European rail traffic management system (ERTMS), construction logistics, maintenance facilities and rolling stock depots, power supply, capacity constraint & buffer capacity development), Global Project development studies (e.g. commercialization, infrastructure management). RB Rail AS shall be the Central Purchasing

Body also for the studies for which other Beneficiaries or Implementing bodies have been designated as the responsible Beneficiaries or Implementing bodies in the grant agreements for the grant from the Connecting Europe Facility, however, this Clause does not apply to the procurements which are announced and contracts which are signed prior to or on the date of the conclusion of this Agreement.

3.1.3. The Parties specifically agree that as a priority the Supplier Market and Resources Study and the study on infrastructure management shall be ready and available to the Parties as soon as possible but not later than until 31 December 2017.

3.1.4. RB Rail AS shall procure as a Central Purchasing Body any other studies, plans and designs for the Global Project which are not referred to in Clause 3.1.2, 5.1.1(c) and 5.1.1(e) but which may become necessary during the Global Project development and implementation.

3.2. Law and procedure applicable to the procurement

3.2.1. When RB Rail AS shall not act as the Central Purchasing Body, RB Rail AS shall conduct the procurement procedure in its own name.

3.2.2. When RB Rail AS shall act as the Central Purchasing Body, RB Rail AS shall conduct the procurement procedure in its own name but on behalf of all relevant Parties. For this purpose, by signing this Agreement each Party individually irrevocably authorises RB Rail AS to act as the Central Purchasing Body, including, but not limited to, to perform the following functions in its name and on its behalf:

(a) Draft the necessary procurement documents.

(b) Publish the necessary publications.

(c) Select and evaluate the tenders.

(d) Award the contract.

(e) Conclude the contract insofar as the contract price does not exceed the approved budget for the particular activity, as a single contract or in cumulation with other contracts within the same activity.

(f) Take part in any legal proceedings, including in administrative institutions and court, arising out of or connected with the procurement procedure.

(g) Supervise the contract execution, including, but not limited to, sign the deeds of acceptance of supplies, services and works, initiate any necessary legal actions against the contractor in courts.

3.2.3. In order to enable RB Rail AS to procure the Detailed Technical Design, by signing this Agreement each Beneficiary which is not RB Rail AS individually irrevocably authorises RB Rail AS to perform the following functions in its name and on its behalf:

(a) To represent that Beneficiary in relations with any state or municipality institution, natural persons or legal entities, with the rights to sign, submit

and receive all the documents and ensure all the activities necessary and related to the preparation of the Detailed Technical Design of the Rail Baltic / Rail Baltica Railway Infrastructure including, but not limited to applications for start of the construction process, receipt of the construction permit, technical conditions and any approvals, development of the construction design, performance of the conditions of the construction permit and receipt of all the remarks in the construction permit that all requirements of the construction permit have been fulfilled.

(b) To perform other activities related to performance of the given task, including, but not limited to signing, submitting and receiving all documents from state and municipal institutions; submitting and receiving documents from natural persons and legal entities.

(c) Certify copies of documents, correctness of transcripts and excerpts, as well as to provide explanations.

3.2.4. Upon request by RB Rail AS and if required in order to fulfil any legal or procedural requirements in any state or municipal institution or court or in relations with natural persons or legal entities, and if necessary for the performance of tasks entrusted to RB Rail AS under Clause 3.1.2(a) and 3.2.2, each Beneficiary undertakes:

(a) to issue to RB Rail AS a power of attorney in writing in accordance with the form included as Appendix 1 to this Agreement within 5(five) business days from the date of the request, or

(b) if necessitated by the national legislation, to initiate adoption of legislative acts or to adopt administrative acts or to conclude contracts with RB Rail AS in order to grant to RB Rail AS the access rights to the real estates where the Rail Baltic / Rail Baltica Railway Infrastructure will be constructed which are necessary in order to enable RB Rail AS to procure the Detailed Technical Design.

3.2.5. By signing this Agreement each Implementing Body consents to the authorisation which the Beneficiaries grant to RB Rail AS in accordance with Clauses 3.2.3 and 3.2.4 and accepts and each Beneficiary confirms that in case the results shall be paid for, owned and entered into the accounting books by such Implementing Body, the relevant Beneficiary grants the authorisation to RB Rail AS in the name and on behalf of such Implementing Body as well.

3.2.6. RB Rail AS shall establish the procurement committee, draft the procurement documentation, call for tenders and select and evaluate tenders in accordance with the Public Procurement Law of Latvia.

3.2.7. In case the particular study, plan or design shall be procured for the benefit of another Beneficiary than RB Rail AS and/or the procurement of such study, plan or design shall be financed by another Party than RB Rail AS, including, from the grant from the Connecting Europe Facility or the national financing which is not an investment in the share capital of RB Rail AS, RB Rail AS shall draft the procurement documents for the procurement of the respective consultancy, planning or designing services in consultation with that Beneficiary.

3.2.8. By signing this Agreement the Shareholders approve in accordance with Clause 9.3.11.(xix) of the Shareholders' Agreement that the procurement committee(s) of

RB Rail AS for RB Rail AS procurements shall be composed of RB Rail AS representatives who may be RB Rail AS employees or other persons invited by RB Rail AS. The procurement committee(s) shall be established by the Management Board of RB Rail AS either as a permanent procurement committee or *ad hoc* procurement committees for each procurement. The procurement committee shall be an independent internal body of RB Rail AS consisting of persons who have knowledge in the field of the relevant procurement(s). Members of the Management Board or the Supervisory Board of RB Rail AS shall not be members of the procurement committee. For the avoidance of doubt the Parties agree that RB Rail AS shall not have an obligation to invite representatives of other Parties than RB Rail AS in the procurement committees.

3.2.9. If the contract shall be concluded as the result of the procurement, the decision by the procurement committee shall be binding upon the Management Board of RB Rail AS.

3.2.10. RB Rail AS shall draft the procurement documents, including the contract, in English and in the languages of the States where the services shall be provided.

3.2.11. When RB Rail AS shall act as the Central Purchasing Body, RB Rail AS shall announce in the procurement documents that RB Rail AS is conducting the procurements in the interests of other involved Parties.

3.2.12. In addition to compulsory publications required by the Public Procurement Law of Latvia, RB Rail AS shall ensure publicising of the procurements in Estonia and Lithuania in Estonian and Lithuanian languages, respectively.

3.3. Conclusion of the contract

3.3.1. RB Rail AS shall conclude the contract in accordance with the decision by the procurement committee in the name and on behalf of itself. One original of a contract shall be provided to each involved Party. If the result shall be paid for by another Beneficiary or Implementing Body (designated by the Beneficiary under Clause 3.4.1 below), RB Rail AS shall envisage in the contract that the result shall be paid for by that other Beneficiary or designated Implementing Body, the order of accepting the result and issuing the invoice to that other Beneficiary or Implementing Body, where relevant, the order of transferring the result to that other Beneficiary or designated Implementing Body, and, as far as these financing and accounting aspects are concerned, shall conclude the contract also in the name and on behalf of that other Beneficiary or Implementing Body, where relevant, as the authorised representative of that other Beneficiary or designated Implementing Body. For the avoidance of doubt, the Parties agree that from the moment of signing of this Agreement RB Rail AS is authorised to perform the functions mentioned in Clause 3.2.2 of this Agreement in the name and on behalf of the Beneficiaries and Implementing Bodies and that RB Rail AS shall request a separate power of attorney as per Clause 3.2.4(a) of this Agreement only if RB Rail AS shall deem such documents necessary.

3.3.2. If the services are provided in the Republic of Estonia or the Republic of Lithuania only, RB Rail AS shall conclude the contracts with the providers of such services through its branch office in the Republic of Estonia or the Republic of Lithuania. For that purpose RB Rail AS shall establish its branch offices in the Republic of Estonia and the Republic of Lithuania as soon as possible.

3.3.3. The contracts shall be governed by the laws of the State where the services are provided. If the services are provided on the basis of the same contract in several States then that contract shall be governed by the laws of the Republic of Latvia.

3.4. Ownership and accounting of the results

3.4.1. The results shall be owned and entered into accounting books by the Beneficiary which shall be designated as the responsible Beneficiary in the grant agreements for the grant from the Connecting Europe Facility, or by an Implementing Body designated by the Beneficiary or the national laws.

3.4.2. If the particular study, plan or design is needed for the implementation of the Global Project to Parties in at least 2 (two) of the States where the Global Project is being implemented and it is not envisaged in the grant agreement for the grant from the Connecting Europe Facility, the result shall be owned and entered into accounting books by RB Rail AS. If the particular study, plan or design is needed for the implementation of the Global Project to Party(ies) in 1 (one) State where the Global Project is being implemented and it is not envisaged in the grant agreement for the grant from the Connecting Europe Facility, the result shall be owned and entered into accounting books by a Party from that State.

3.5. **Payment for the services**

3.5.1. Payment for the services shall be done by the Party who shall own and enter into accounting books the respective results, in accordance with the contract with the provider of services, as follows:

(a) RB Rail AS shall verify the fact of delivery and the quality of the services and shall sign the deed of acceptance on behalf and in the name of the Party who shall own and enter into accounting books the respective results.

(b) RB Rail AS or the service provider, depending on the contract with the service provider, shall submit the signed deed of acceptance and the invoice to the Party who shall own and enter into accounting books the respective results.

(c) The Party who shall own and enter into accounting books the respective results shall pay to the supplier, service provider or provider of works in accordance with the invoice as follows:

(i) Costs which are eligible costs in order to be paid from the grant from the Connecting Europe Facility, the Party who shall own and enter into accounting books the results shall pay from the money received as grant from the Connecting Europe Facility in the proportion which is agreed in the relevant grant agreement for the grant from the Connecting Europe Facility.

(ii) The national co-financing part of the eligible costs of the grant from the Connecting Europe Facility, costs which are not eligible to be paid from the grant from the Connecting Europe Facility and in case the financing from the grant from the Connecting Europe Facility is not sufficient to cover the costs

which otherwise would be eligible, the Party who shall own and enter into accounting books the results shall finance from its own funds, which may be the investment in the share capital of RB Rail AS, the national allocation for the Global Project or other source of financing. If that Party shall be RB Rail AS, RB Rail AS shall pay from the funding which the shareholders have invested in the share capital of RB Rail AS or have otherwise provided to RB Rail AS.

4. CONSOLIDATED PROCUREMENT

4.1. Supplies, services and works

4.1.1. The involved Parties shall conduct Consolidated Procurement(s) of the following supplies, services and works:

(a) The following universal railway equipment and sub-systems with demonstrated economies of scale from procurement consolidation and critical from the point of view of interoperability:

(i) Control-command and signaling subsystems (CCS) (including the European Railway Traffic Management System (ERTMS)) – single contract (purchase, delivery and deployment);

(ii) Energy subsystem (ENE) (including catenary, substations, management centre) – single contract (purchase, delivery and deployment).

(b) Supplies of main raw materials and key components, with potential availability in the local markets (e.g. constructive layer for track and track bed, fixtures and other materials for engineering structures, rails, crossings, sleepers, ballast for superstructure, passenger information systems) – framework agreements or a dynamic purchasing system. Consolidated Procurement model in this segment to be applied only if potential for economies of scale demonstrated in the Supplier Market and Resources Study.

(c) Works for the construction of Cross-Border Track and Track Bed Sections.

4.2. Law and procedure applicable to the procurement

4.2.1. The Parties appoint RB Rail AS as the organisation which shall organise Consolidated Procurements, conclude the contracts and supervise the execution of the concluded contracts in the name and on behalf of the Parties who will be involved in the particular procurement. For this purpose, by signing this Agreement each relevant Party individually irrevocably authorises RB Rail AS to act in the name and on behalf of it in performing the following functions:

(a) Draft the necessary procurement documents and determine their contents.

(b) Publish the necessary publications.

(c) Select and evaluate the tenders.

(d) Award the contract, the framework agreement and the contract within the framework agreement.

(e) Conclude the contract, the framework agreement and the contract within the framework agreement insofar as the contract price does not exceed the approved budged for the particular activity as a single contract or in cumulation with other contracts within the same activity.

(f) Take part in any legal proceedings, including in administrative institutions and court, arising out of or connected with the procurement procedure.

(g) Supervise the contract execution, including, but not limited to, sign the deeds of acceptance of supplies, services and works, initiate any necessary legal actions against the contractor in courts.

4.2.2. In order to enable RB Rail AS to procure works for the Control-command and signaling subsystems (CCS), Energy subsystem (ENE) and Cross-Border Track and Track Bed Sections, by signing this Agreement each Beneficiary which is not RB Rail AS (as an exception until the Railway Code of Lithuania is not amended: also Lietuvos geležinkeliai AB) individually irrevocably authorises RB Rail AS to perform the following functions in its name and on its behalf:

(a) To represent that Beneficiary (as an exception until the Railway Code of Lithuania is not amended: also Lietuvos geležinkeliai AB) in relations with any state or municipality institution, natural persons or legal entities, with the rights to sign, submit and receive all the documents and ensure all the activities necessary and related to the construction process of the Rail Baltic / Rail Baltica Railway Infrastructure on the real estate belonging to the respective State, including, but not limited to applications for the start of the construction process, receipt of the construction permit, technical conditions and any approvals, development of the construction design, performance of the conditions of the construction permit and receipt of all the remarks in the construction permit that all requirements of the construction permit have been fulfilled.

(b) To perform other activities related to performance of the given task, including, but not limited to signing, submitting and receiving all documents from state and municipal institutions, submitting and receiving documents from natural persons and legal entities.

(c) Certify copies of documents, correctness of transcripts and excerpts, as well as to provide explanations.

4.2.3. Upon request by RB Rail AS and if required in order to fulfil any legal or procedural requirements in any state or municipal institution or court or in relations with natural persons or legal entities, each Beneficiary (as an exception until the Railway Code of Lithuania is not amended: also Lietuvos geležinkeliai AB) undertakes:

(a) to issue to RB Rail AS a power of attorney in writing in accordance with

the form included as Appendix 1 within 5(five) business days from the date of the request, or

(b) if necessitated by the national legislation, to initiate adoption of legislative acts or to adopt administrative acts or to conclude contracts with RB Rail AS in order to grant to RB Rail AS the access rights to the real estates where the Rail Baltic / Rail Baltica Railway Infrastructure will be constructed which are necessary in order to enable RB Rail AS to procure the works for the construction of the Control-command and signaling subsystems (CCS), Energy subsystem (ENE) and the Cross-Border Track and Track Bed Sections.

4.2.4. RB Rail AS shall specify in procurement documents the names of all Parties in whose name and on whose behalf RB Rail AS is conducting the relevant Consolidated Procurement.

4.2.5. RB Rail AS shall establish the procurement committee, draft the procurement documentation, call for tenders and select and evaluate tenders in accordance with the Public Procurement Law of Latvia.

4.2.6. By signing this Agreement the Shareholders approve in accordance with Clause 9.3.11.(xix) of the Shareholders' Agreement that the procurement committee(s) of RB Rail AS for Consolidated Procurements shall be composed of more than half of RB Rail AS representatives who may be RB Rail AS employees or other persons invited by RB Rail AS, including RB Rail AS shall nominate the chairman of the procurement committee(s), and 1 (one) representative from each relevant Beneficiary. The procurement committee(s) shall be established by the Management Board of RB Rail AS either as a permanent procurement committee or *ad hoc* procurement committees for each procurement. The procurement committee shall be an independent body consisting of persons who have knowledge in the field of the relevant procurement(s). Members of the Management Board or Supervisory Board of RB Rail AS shall not be members of the procurement committee.

4.2.7. If contracts shall be concluded as the result of Consolidated Procurements or within the framework agreements, decisions by the procurement committee shall be binding upon the Management Board of RB Rail AS.

4.2.8. In addition to compulsory publications required by the Public Procurement Law of Latvia, RB Rail AS shall ensure publicising of the procurements in Estonia and Lithuania in Estonian and Lithuanian languages, respectively.

4.2.9. RB Rail AS shall draft the procurement documents, including the contract, in English and the languges of the States where the supplies shall be delivered and services or works shall be performed.

4.3. Conclusion of the contract and framework agreement with the supplier, provider of services or works

4.3.1. RB Rail AS shall conclude the contract, the framework agreement and the contracts within the framework agreement in accordance with the decision by the procurement committee in the name and on behalf of itself and if the result shall be paid for by other Beneficiary (as an exception until the Railway Code of Lithuania is not amended: by Lietuvos geležinkeliai AB) than RB Rail AS, RB Rail AS shall envisage in the contract that the result shall be paid for by that other Beneficiary (as

an exception until the Railway Code of Lithuania is not amended: by Lietuvos geležinkeliai AB), the order of accepting the result and issuing the invoice to that other Beneficiary (as an exception until the Railway Code of Lithuania is not amended: to Lietuvos geležinkeliai AB), the order of transferring the result to that other Beneficiary (as an exception until the Railway Code of Lithuania is not amended: to Lietuvos geležinkeliai AB), and, as far as these financing and accounting aspects are concerned, shall conclude the contract also in the name and on behalf of that other Beneficiary (as an exception until the Railway Code of Lithuania is not amended: also Lietuvos geležinkeliai AB) as the authorised representative of that other Beneficiary (as an exception until the Railway Code of Lithuania is not amended: also Lietuvos geležinkeliai AB). For the avoidance of doubt the Parties agree that from the moment of signing of this Agreement RB Rail AS is authorised to perform the functions mentioned in Clause 4.2.1 of this Agreement in the name and on behalf of the Parties and that RB Rail AS shall request a separate power of attorney as per Clause 4.2.3(a) of this Agreement only if RB Rail AS shall deem such documents necessary. One original of a contract shall be provided to each involved Party.

4.3.2. If the supplies are delivered or services or works are provided in the Republic of Lithuania or the Republic of Estonia only, RB Rail AS shall conclude the contracts with the suppliers, providers of services or works through its branch office in the Republic of Lithuania or the Republic of Estonia.

4.3.3. The contracts and the framework agreements shall be governed by the laws of the State where the supplies are delivered, the services are provided or the works are done. If the supplies are delivered, the services are provided or the works are done on the basis of the same contract or framework agreement in several Statesthen that contract or framework agreement shall be governed by the laws of the Republic of Latvia.

4.4. Ownership and accounting of the results

4.4.1. The owner of the Railway Infrastructure and the supplies for its construction in the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania shall be the State where the part of the Railway Infrastructure concerned is located and shall be possessed and accounted for in accordance with the rules of national legislation regulating the development, ownership and possession of Railway Infrastructure.

4.5. Payment for the supplies, services and works

4.5.1. Payment for the supplies, services and works shall be done by the Party, who shall own/possess and enter into accounting books the respective results, in accordance with the contract with the supplier, provider of services or works, as follows:

(a) RB Rail AS shall verify the fact of delivery and the quality of supplies, services or works and shall sign the deed of acceptance on behalf and in the name of the Party who shall own/possess and enter into accounting books the respective results.

(b) RB Rail AS or the supplier, service provider or provider of works shall submit the signed deed of acceptance and the invoice to the Party who shall own and account the respective results.

(c) The Party who shall own/possess and enter into accounting books the respective results shall pay to the supplier, service provider or provider of works in accordance with the invoice as follows:

(i) Eligible costs in order to be paid from the grant from the Connecting Europe Facility, the Party who shall own/possess and enter into accounting books the results shall pay from the money received as grant from the Connecting Europe Facility in proportion which is agreed in the relevant grant agreement for the grant from the Connecting Europe Facility.

(ii) The national co-financing part of the eligible costs of the grant from the Connecting Europe Facility, costs which are not eligible to be paid from the grant from the Connecting Europe Facility or if the financing from the grant from the Connecting Europe Facility is not sufficient to cover the costs which otherwise would be eligible, the Party who shall own/possess and enter into accounting books the results shall pay from its own funds, which may be the national allocation for the Rail Baltic / Rail Baltica project or other source of financing

5. SUPERVISED NATIONAL PROCUREMENT

5.1. Supplies, services and works

5.1.1. The following supplies, services and works shall be procured under supervision of RB Rail AS by the Beneficiaries and other Implementing Bodies in the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania:

(a) Track and track bed (including relevant non-major engineering structures, superstructure, communication crossings);

(b) Major engineering structures (tunnels, bridges);

(c) Without prejudice to Clause 4.1.1, Local Facilities, including the required technical designs, including the Detailed Technical Design, thereof (Passenger Terminals, Freight Terminals, Infrastructure maintenance facilities, Rolling stock service facilities);

(d) Without prejudice to Clause 4.1.1, Urban Node Section of the Railway Infrastructure;

(e) Works and services needed for the implementation of the Global Project only to Party(ies) in 1 (one) State where the Global Project is being implemented, unless the particular activity is envisaged in a grant agreement for the grant from the Connecting Europe Facility and a Party from another State or RB Rail AS is appointed as a responsible Beneficiary or Implementing Body.

5.2. Law and procedure applicable to the procurement

5.2.1. Each Beneficiary and Implementing Body shall procure supplies, services and works in accordance with the laws applicable to that Beneficiary or Implementing Body. The Beneficiaries and Implementing Bodies shall abide by the national public procurement rules in all cases when they act in their capacity as contracting authorities within the meaning of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 On Public Procurement and Repealing Directive 2004/18/EC or contracting entities within the meaning of Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 On Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors and Repealing Directive 2004/17/EC.

5.2.2. Beneficiaries and Implementing Bodies shall invite an authorised representative of RB Rail AS with the knowledge of the official language of the respective State in the procurement committees of the procurements of that Beneficiary or Implementing Body for the Global Project if the anticipated value of the procurement is equal to or exceeds EUR 40,000, excluding VAT.

5.2.3. Beneficiaries and Implementing Bodies shall draft procurement documents on the basis of common templates for procurement documents and a minimum set of requirements for the qualifications of economic operators, developed by RB Rail AS.

5.2.4. In addition to compulsory publications required by the law which is applicable to the relevant Beneficiary or Implementing Body, that Beneficiary or Implementing Body shall ensure that the procurement is publicised in all States where the Rail Baltic / Rail Baltica project is implemented, in the languages of those States, respectively.

5.2.5. Beneficiaries and Implementing Bodies shall draft the procurement documents, including the contract, in English and, if required, in their national languages. Beneficiaries and Implementing Bodies shall ensure that documents relating to the execution of the contracts are available without undue delay in the English language when required for the purpose of audits or on-the-spot visits.

5.3. Conclusion of the contract and framework agreement with the supplier, provider of services or works

5.3.1. The Beneficiary and the Implementing Body shall conclude the contract, the framework agreement and the contracts within the framework agreement in the name and on behalf of itself or, if relevant, on behalf of the relevant Beneficiary.

5.3.2. The contracts and the framework agreements shall be governed by the laws of the State where the supplies are delivered, the services are provided or the works are done.

5.4. Ownership and accounting of the results

5.4.1. The owner of the Railway Infrastructure in the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania shall be the State where the part of the Railway Infrastructure concerned is located and the results shall be possessed and accounted

for in accordance with the rules of national legislation regulating the development, ownership and possession of Railway Infrastructure. The owner of other results of the supervised national procurements shall be the Party who shall pay for such results. The same Party shall also enter into accounting books the results.

5.5. Payment for the supplies, services and works

5.5.1. Payment for the supplies, services and works shall be done by the Party, who shall own/possess and enter into accounting books the respective results, in accordance with the contract with the supplier or the provider of services or works as follows:

(a) The Beneficiary and the Implementing Body shall verify the fact of delivery and the quality of supplies, services or works and shall sign the deed of acceptance on behalf and in the name of the Party who shall own/possess and enter into accounting books the respective results.

(b) The Beneficiary and the Implementing Body or the supplier, service provider or provider of works, depending on the contract with the supplier or the provider of services or works, shall submit the signed deed of acceptance and the invoice to the Party who shall own/possess and enter into accounting books the respective results.

(c) The Party who shall own/possess and enter into accounting books the respective results shall pay to the supplier, service provider or provider of works in accordance with the invoice as follows:

(i) If the relevant costs are eligible costs in order to be paid from the grant from the Connecting Europe Facility, the Party who shall own/possess and enter into accounting books the results shall pay for such eligible costs from the money received as grant from the Connecting Europe Facility, but not exceeding the rate of reimbursement of the eligible costs for the particular activity which is agreed in the relevant grant agreement for the grant from the Connecting Europe Facility.

(ii) In case of the national co-financing part of the eligible costs of the grant from the Connecting Europe Facility as well as costs which are not eligible to be paid from the grant from the Connecting Europe Facility or if the financing from the grant from the Connecting Europe Facility is not sufficient to cover the costs which otherwise would be eligible, the Party who shall own/possess and enter into accounting books the results shall finance the payment from its own funds, which may be the national allocation for the Rail Baltic / Rail Baltica project or other source of financing.

5.6. Technical, legal and financial checks and audits

5.6.1. By giving a written notice 5 (five) business days in advance, but in case of an unannounced check or audit without an advance notice, RB Rail AS shall have the right to carry out technical, legal and financial checks and audits in relation to the implementation of the Rail Baltic / Rail Baltica project by other Parties, the contractors of other Parties and the sub-contractors of the contractors.

5.6.2. Checks and audits may be carried out either directly by the authorized staff of RB Rail AS or by any other outside body authorised to do so on its behalf.

5.6.3. In order to avoid conflicts of interests, RB Rail AS shall ensure that its staff or outside bodies who are directly engaged in the implementation of the Rail Baltic / Rail Baltica project by the respective Party shall not carry out the checks and audits at that Party.

5.6.4. Information and documents obtained in the framework of checks or audits shall be treated on a confidential basis. RB Rail AS shall ensure that its staff and any outside body authorised by it shall be bound by the confidentiality obligation.

5.6.5. The relevant Party shall provide to the performer of the check or audit or any other outside body authorised by it 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 by it for the performance of the check or audit and which relates to the implementation of the Rail Baltic / Rail Baltica project, 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.

5.6.6. The Parties shall ensure that the obligation to ensure the right to access and to copy to the performer of the check or audit or any other outside body authorised by it referred to in Clause 5.6.1 is agreed in the contracts with their contractors and their sub-contractors.

5.7. On-the-spot visits

5.7.1. By giving a written notice 5 (five) business days in advance, but in case of an unannounced on-the-spot visit without an advance notice, RB Rail AS shall have the right to carry out on-the-spot visits to the sites and premises where the activities implemented within the Rail Baltic / Rail Baltica project are or were carried out.

5.7.2. On-the-spot visits may be carried out either directly by the authorised staff of RB Rail AS or by any other outside body authorised to do so on its behalf. Information provided in the framework of on-the-spot visits shall be treated on confidential basis. RB Rail AS shall ensure that any outside body authorised by it shall be bound by the confidentiality obligation.

5.7.3. In order to avoid conflicts of interests, RB Rail AS shall ensure that its staff or outside bodies who are directly engaged in the implementation of the Rail Baltic / Rail Baltica project by the respective Party shall not carry out the on-the-spot visits at that Party.

5.7.4. The relevant Parties shall provide to the performer of the on-the-spot visit or any other outside body authorised by it 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 by it for the performance of an on-the-spot visit and which relates to the implementation of the Rail Baltic / Rail Baltica project, as well as shall allow the authorised staff of the performer of the on-the-spot visit or any other outside body authorised by it copying of the information and documents, with due respect to the confidentiality obligation.

5.7.5. The Parties shall ensure that the right to access and to copy to the authorised staff of the performer of the on-the-spot visit or any other outside body authorised by it referred to in Clause 5.7.1 is agreed in the contracts with their contractors and their sub-contractors.

6. INTERIM FINANCING AGREEMENT

6.1. The Shareholders undertake to negotiate and agree on an interim financing agreement for ensuring sustainable financing of the operation of RB Rail AS activities in relation to the implementation of the Global Project within 1 (one) year after signing this Agreement.

7. LIABILITY OF THE PARTIES

7.1. Each Party shall be liable for direct and indirect losses or damage which is caused to any other Party by it breaching this Agreement, including, revoking any power of attorney, therefore such breaching Party shall compensate the losses or damage, including all legal fees and costs, as well as the financing for the procurement which should have been made available by the breaching Party for the financing of the particular procurement e.g. payment for the results, to the Party which suffered the losses or damage within 30 (thirty) days from the date when a written request for compensation is sent from the suffering Party to the breaching Party.

8. APPLICABLE LAW

8.1. This Agreement is governed by the laws of Latvia.

9. DISPUTE RESOLUTION AND JURISDICTION

9.1. The Parties shall first attempt to settle any dispute, controversy or claim arising out of or relating to this Agreement by way of negotiations between the disputing Parties.

9.2. If a Commercial Dispute cannot be settled by the way of mutual negotiations within a period of 30 (thirty) calendar days, any Commercial Dispute shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce (the "SCC"). The Rules for Expedited Arbitrations shall apply where the amount in dispute does not exceed EUR 100,000. Where the amount in dispute exceeds EUR 100,000 the Arbitration Rules shall apply. The Arbitral Tribunal shall be composed of a sole arbitrator where the amount in dispute exceeds EUR 100,000 but not EUR 1,000,000. Where the amount in dispute exceeds EUR 1,000,000, the Arbitral Tribunal shall be composed of three arbitrators. The amount in dispute includes the claims made in the Request for Arbitration and any counterclaims made in the Answer to the Request for Arbitration. The seat of arbitration shall be Riga, Latvia. The language to be used in the arbitral proceedings shall be English

9.3. If any other dispute other than the Commercial Dispute cannot be settled by the way of mutual negotiations within a period of 30 (thirty) calendar days, any of the Parties shall have the right to refer the dispute, controversy or claim for the determination

by the dispute resolution committee. The Dispute Resolution Committee shall be a committee consisting of 1 (one) authorised representative from each of the Parties.

9.4. The Parties shall not authorise as their representatives in the Dispute Resolution Committee a person who has performed an action or omission or who has directly supervised or controlled the person who has performed an action or omission which has led to the dispute, controversy or claim to be settled by the Dispute Resolution Committee.

9.5. Each of the Parties shall inform in writing other Parties about its appointed 1 (one) member of the Dispute Resolution Committee. Each of the Parties shall inform in writing the other Parties about removal or replacement of its member of the Dispute Resolution Committee.

9.6. The Dispute Resolution Committee shall discuss the dispute, controversy or claim on the basis of the proposed decision on the resolution of the dispute, controversy or claim, which shall be proposed by the referring Party, within 1 (one) month from the day of referral thereof. The decision shall be adopted if all members of the Dispute Resolution Committee vote unconditionally in favour of the decision.

9.7. In case the decision is not adopted in the first Dispute Resolution Committee voting, the second Dispute Resolution Committee voting shall take place not earlier than 3 (three) months and not later than 4 (four) months from the first Dispute Resolution Committee voting. During the period in between the Parties shall attempt proposing alternative solutions. The referring Party shall propose the decision on the resolution of the dispute, controversy or claim for voting. The decision shall be adopted if all members of the Dispute Resolution Committee vote unconditionally in favour of the decision.

9.8. In case the decision is not adopted in the second Dispute Resolution Committee voting, the third Dispute Resolution Committee voting shall take place not later than 14 (fourteen) calendar days from the second Dispute Resolution Committee voting. During the period in between the Parties shall attempt proposing alternative solutions. The referring Party shall propose the decision on the resolution of the dispute, controversy or claim for voting. The decision shall be adopted if the majority of the members of the Dispute Resolution Committee vote unconditionally in favour of the decision.

9.9. Voting at the Dispute Resolution Committee can take place in a meeting or through correspondence, including e-mail or telefax.

9.10. The Parties shall follow the Dispute Resolution Committee's decision.

9.11. The Parties agree that, in case the decision by the Dispute Resolution Committee shall not be followed, the interested Party may refer the issue to the Cabinet of Ministers and invite the members of the Cabinet of Ministers to resolve the issue on a political level.

10. FORCE MAJEURE

10.1. "Force majeure" shall mean any unforeseeable exceptional situation or event beyond a parties' control, which prevents either of them from fulfilling any of their obligations under this Agreement, which was not attributable to error or negligence on their part and which proves to be inevitable in spite of exercising all due

diligence. Any default of a service, defect of equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure, as well as labour disputes, strikes or financial difficulties cannot be invoked as force majeure.

10.2. A Party faced with force majeure shall formally notify in writing other Parties without delay, stating the nature, likely duration and foreseeable effects.

10.3. The Parties shall take the necessary measures to limit any damage due to force majeure with the view to minimising the risks to implementation of the Rail Baltic / Rail Baltica project and to the infrastructure that will be or has been constructed as an (interim) result of this project. The Parties shall do their best to resume the implementation of the Rail Baltic / Rail Baltica project as soon as possible.

10.4. The Party faced with force majeure shall not be held to be in breach of its obligations under this Agreement if it has been prevented from fulfilling them by force majeure.

11. MISCELLANEOUS

11.1. This Agreement sets out entire agreement and understanding between the Parties with respect to the subject matter hereof. It is agreed that no Party has entered into this Agreement in reliance upon any representation, warranty or undertaking of any other Party which is not expressly set out or referred to in this Agreement.

11.2. This Agreement, including the authorisations to RB Rail AS, can be amended or terminated by written agreement between all Parties only, signed by duly authorised officers on behalf of the Parties. No failure or delay on the part of any Party in exercising any right, power or privilege hereunder and no course of dealing between the Parties shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof of any other right, power or privilege.

11.3. If any provision of this Agreement, in whole or in part, proves to be invalid for any reason, such invalidity shall affect only the portion of such provision which shall be invalid. In all other aspects this Agreement shall stand as if such invalid provision had not been made, and no other portion or provision of this Agreement shall be invalidated, impaired or affected thereby. This Clause is not limited by any other provision of this Agreement in relation to severability, invalidity or unenforceability.

11.4. In case additional parties shall join the Rail Baltic / Rail Baltica project, such additional parties to the Rail Baltic / Rail Baltica project may become a Party to this Agreement by a unanimous consent of the existing Parties and by signing this Agreement.

11.5. This Agreement enters into force on the date when all Parties have signed it and it will remain in force until full completion of the obligations of the Parties arising out of this Agreement.

11.6. In witness thereof the Parties agree that this Agreement is in effect as of 30 September 2016, signed in 9 (nine) original authentic copies, 1 (one) original for each Party.

12. SIGNATURES OF THE PARTIES

Rimantas Sinkevičius
FOR MINISTRY OF TRANSPORT AND COMMUNICATIONS OF THE REPUBLIC OF LITHUANIA

Raigo Uukkivi
FOR ESTONIAN TECHNICAL REGULATORY AUTHORITY

Baiba Anda Rubesa
FOR RB RAIL AS

Indrek Orav
FOR RAIL BALTIC ESTONIA OÜ

Merike Saks
FOR MINISTRY OF ECONOMIC AFFAIRS AND COMMUNICATIONS OF THE REPUBLIC OF ESTONIA

Dins Merirands
FOR EIROPAS DZELZCEĻA LĪNIJAS SIA

Kaspars Ozoliņš
FOR MINISTRY OF TRANSPORT OF THE REPUBLIC OF LATVIA

Stasys Dailydka
FOR AKCINĖ BENDROVĖ LIETUVOS GELEŽINKELIAI

Dainius Budrys
FOR UAB "RAIL BALTICA STATYBA"

APPENDIX 1

POWER OF ATTORNEY (TEMPLATE)

[Beginning of the template]

[•], registration No [•], registered address at [•] **(Principal)**,

WHEREAS:

(A) on [•] September 2016 RB Rail AS (registration No 40103845025), Ministry of Economic Affairs and Communications of the Republic of Estonia (registration No 70003158), the Principal, Ministry of Transport and Communications of the Republic of Lithuania (registration No 188620589), Estonian Technical Regulatory Authority (registration No 70003218), Rail Baltic Estonia OU (registration No 12734109), Eiropas dzelzceļa līnijas SIA (registration No 40103836785), Akcinė bendrovė Lietuvos geležinkeliai (company code 110053842) and UAB "Rail Baltica statyba" (company code 303227458) (all jointly – **Parties**) concluded an agreement on the contracting scheme for the Rail Baltic / Rail Baltica (**Agreement**);

(B) the Agreement provides for cooperation principles and division of responsibilities between the Parties in building, rendering operational and commercializing the Rail Baltic / 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-Panevezys-Kaunas to Lithuanian-Polish border, with the connection of Kaunas - Vilnius, hereinafter – **Project**) in accordance with the route, technical parameters and time schedule as set in the Agreement;

(C) RB Rail AS (registration No 40103845025) has been appointed by all the Parties as the responsible entity for implementing Centralised and Consolidated Procurements, including, business development, marketing, branding and communication activities; design elements for the Global Project, in particular Design Guidelines, Consolidated Preliminary Technical Design, Master Design and Detailed Technical Design; studies for the Global Project, in particular Supplier Market and Resources Study (raw materials and key components), Technical studies (related to the European rail traffic management system (ERTMS), construction logistics, maintenance facilities and rolling stock depots, power supply, capacity constraint & buffer capacity development), Global Project development studies (e.g. commercialization, infrastructure management); Control-command and signalling subsystems (CCS) (including the European Railway Traffic Management System (ERTMS)); Energy subsystem (ENE) (including catenary, substations, management centre); supplies of main raw materials and key components, with potential availability in the local markets (e.g. constructive layer for track and track bed, fixtures and other materials for engineering structures, rails, crossings, sleepers, ballast for superstructure, passenger information systems) and works for the construction of Cross-Border Track and Track Bed Sections,

hereby authorises **RB Rail AS**, a joint stock company registered in the Commercial Registry of Latvia with No 40103845025, registered address at Gogoļa iela 3, LV-1050, Riga, Latvia (**RB Rail AS**) to represent and act on behalf and in the interests of the Principal with respect to the following tasks:

1. DESIGNING WORKS

To perform all actions necessary in order to ensure that design works necessary for the Project are carried out and fully completed until [•]. The design works shall be performed with respect to the real estates where the Rail Baltic / Rail Baltica railway infrastructure will be located, [the list of which is attached to this power of attorney as Annex No 1 and forms an integral part of it].

The mentioned includes (but is not limited to) conduct of the necessary public procurement procedures and the right to choose the contractors, conclude the necessary contracts, to request and obtain all necessary technical requirements and other information from state and municipal authorities and institutions, and private persons (including the entities owned and/or controlled by the state, as well as natural persons), to prepare the design task, to control the fulfilment of all concluded contracts, to supervise the performance of works, to organise the approval process of the prepared design with the relevant authorities, to obtain the necessary third party consents (including from the owners of neighbouring land plots), to organise expert assessments.

2. CONSTRUCTION WORKS

To perform all actions necessary in order to ensure that construction works necessary for the Project (with limitations as set out below) are carried out and fully completed until [•].

The mentioned includes (but is not limited to) conduct of the necessary public procurement procedures and the right to choose the contractors, conclude the necessary contracts, to request and obtain all necessary technical requirements from state and municipal authorities and institutions, and private persons (including the entities owned and/or controlled by the state, as well as natural persons), to control the fulfilment of all concluded contracts, to supervise the performance of works, to organise putting the constructed structure into operation, to obtain the necessary third party consents (including from the owners of neighbouring land plots), to organise expert assessments.

When and where appropriate, RB Rail AS is entitled to conclude contracts for performance of design and construction works based on the "design & build" principle, i.e., by engaging the same contractor for performing of both works.

However, this power of attorney regarding the construction works is limited to the construction works to be performed within the cross-border area of [•] [as indicated in the plan which is attached to this power of attorney as Annex No 2 and forms an integral part of it], Control-command and signalling subsystems (CCS) (including the European Railway Traffic Management System (ERTMS)) and Energy subsystem (ENE) (including catenary, substations, management centre).

3. CONCLUDING THE CONTRACTS

All tasks under this power of attorney shall be performed by RB Rail AS in the best interest of the Principal.

However, for purposes of easier administration and implementation of the Project, RB Rail AS shall conclude all the necessary contracts (with limitations as set in Section 5 of this power of attorney), in its own name as if RB Rail AS was a commissioning authority in the Project itself.

When concluding contracts regarding the design and construction works and other necessary contracts for fulfilment of the tasks under this power of attorney, RB Rail AS is entitled to act as a commissioning authority at its full discretion. Thus, RB Rail AS is entitled to agree on the provisions (including, the prices) of the contracts to be concluded regarding the performance of the tasks under power of attorney at its own discretion, however, subject to budgetary and timeline constraints arising

out of the grant agreements for the grant from the Connecting Europe Facility or in relation to other sources of financing, or of any other agreement which is legally binding to RB Rail AS, as well as mandatory provisions set in applicable regulatory enactments. For avoidance of any doubt – all permits (including, the construction permit), technical requirements, as well as putting the built structure into operation shall be issued/carried out in the name of the Principal.

4. PAYMENTS FOR THE WORKS PERFORMED

Notwithstanding the provisions of Section 4 of this power of attorney, the concluded contracts for the provision of services or performance of works mentioned in the above sections of this power of attorney shall provide that the payments attributable to the Principal shall be made to the relevant contractor directly by the Principal itself.

The Principal's signature on this power of attorney serves as a confirmation to RB Rail AS and the relevant contractor that the Principal recognises the binding effect of the relevant contract and agrees to the payment structure set therein, as well as that the Principal shall have the necessary funding for the payment for services and works, consisting of the grant from the Connecting Europe Facility or other financial instruments of the European Union, the national co-funding/own financing and of other means of financing.

Moreover, the Principal hereby authorises RB Rail AS to sign the relevant contracts with respect to the payment structure in the name of the Principal. Thus, to avoid any doubts, the relevant contracts will have at least three parties: the contractor, RB Rail AS acting as a commissioning authority in the interests of the Principal, and the Principal undertaking the payment obligations set in the relevant contract, represented by RB Rail AS as the authorised person.

5. MISCELLANEOUS

This power of attorney is issued without rights of further authorisation.

The power of attorney is valid until end term/termination of the Agreement, whichever happens sooner.

For avoidance of any doubts, the authorisation under this power of attorney *inter alia* includes the right:

(a) to represent the Principal in relations with any state or municipality institutions, natural persons or legal entities, with the rights to sign, submit and receive all the documents and ensure all the activities necessary and related to the fulfilment of the tasks under this power of attorney, including, but not limited to applications for the start of the construction process, receipt of the construction permit, technical conditions and any approvals, development of the construction design, performance of the conditions of the construction permit and receipt of all the notes in the construction permit that all requirements of the construction permit have been fulfilled;

(b) to perform other activities related to performance of the tasks under this power of attorney, including, but not limited to signing, submitting to and receiving all documents from state and municipal institutions; submitting to and receiving documents from natural persons and legal entities;

(c) to certify copies of documents, correctness of transcripts and excerpts, as well as to provide explanations.

The third parties shall not be bound by the provisions of the Agreement as the latter applies to Parties only.

Regulative enactments of the [•] are applied to this power of attorney.

On behalf of the Principal:

_____

[•]

[End of the template]

Rimantas Sinkevičius
FOR MINISTRY OF TRANSPORT AND COMMUNICATIONS OF THE REPUBLIC OF LITHUANIA

Raigo Uukkivi
FOR ESTONIAN TECHNICAL REGULATORY AUTHORITY

Baiba Anda Rubesa
FOR RB RAIL AS

Indrek Orav
FOR RAIL BALTIC ESTONIA OÜ

Merike Saks
FOR MINISTRY OF ECONOMIC AFFAIRS AND COMMUNICATIONS OF THE REPUBLIC OF ESTONIA

Dins Merirands
FOR EIROPAS DZELZCEĻA LĪNIJAS SIA

Kaspars Ozoliņš
FOR MINISTRY OF TRANSPORT OF THE REPUBLIC OF LATVIA

Stasys Dailydka
FOR AKCINĖ BENDROVĖ LIETUVOS GELEŽINKELIAI

Dainius Budrys
FOR UAB "RAIL BALTICA STATYBA"

Authentication of copy

I hereby confirm the authenticity of the agreement.

The agreement has 28 (twenty eight) pages.

Bound together in Tallinn, 29.09.2016