



**AGREEMENT**

**ON**

**INTERIM FINANCING OF RB RAIL AS IN 2019**

**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**

**RAIL BALTIC ESTONIA OÜ**

**EIROPAS DZELZCEĻA LĪNIJAS SIA**

**RAIL BALTICA STATYBA UAB**

26 March 2019

## THE PARTIES

- (1) **RB Rail AS**, a joint stock company registered in the Commercial Registry of Latvia with No 40103845025, registered address at K. Valdemāra iela 8 - 7, LV-1010, Riga, Latvia, represented by Chairman of the Management Board, Mr Timo Riihimäki and Member of the Management Board, Mr Ignas Degutis and
- (2) **Ministry of Economic Affairs and Communications of the Republic of Estonia**, registration No 70003158, registered address at Suur-Ameerika 1, Tallinn, 10122, Estonia, represented by Secretary General, Mr Ando Leppiman, as Beneficiary, 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 Minister, Mr Tālis Linkaits, as Beneficiary, 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 Acting Chancellor, Mr Andrius Šniuolis, as Beneficiary, and
- (5) **Rail Baltic Estonia OÜ**, registration No 12734109, registered address at Endla tn 16, Tallinn 10142 Estonia, represented by Member of the Management Board, Ms Riia Sillave, and
- (6) **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 Andris Linužs, and
- (7) **Rail Baltica statyba UAB**, 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 Karolis Sankovski,

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

## WHEREAS

- (A) On 13 December 2017 the Parties signed an Agreement on Interim Financing of RB Rail AS; in Clause 3.1 the Parties agreed to conclude an agreement on sustainable financing of the operation of RB Rail AS activities in relation to the implementation of the Global Project from 2019 onwards.
- (B) On 2 November 2018 the budget of RB Rail AS for 2019 was approved; the implementation of the approved budget depends on the financing amounts made available by the Shareholders and the Ministry of Economic Affairs and Communications of the Republic of Estonia, the Ministry of Transport of the Republic of Latvia and the Ministry of Transport and Communications of the Republic of Lithuania.
- (C) The Parties wish to ensure financing of RB Rail AS activities for the year of 2019 so as to enable successful implementation of the Global Project by all parties involved, while respecting the RB Rail AS budget approval and implementation procedures as stipulated in the Shareholders' Agreement, by, for example, but not limited to:
  - (a) Increase of the share capital of RB Rail AS;

- (b) State subsidies;
  - (c) Use of previously paid share capital of RB Rail AS;
  - (d) CEF Grant eligible cost budget re-allocation from the Beneficiaries to RB Rail AS;
  - (e) Making accessible for RB Rail AS nationally administered financial means of the CEF Grants;
  - (f) Making available Bridge financing for the financing of the planned eligible costs within the agreed amount of financing;
  - (g) Other financing means based on each Beneficiaries' preference.
- (D) RB Rail AS must act in accordance with the international, European Union and national legal framework, insofar it is applicable, including but not limited to 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, the Law on Supervision of European Connecting Europe Facility Projects and the underlying Regulations of the Cabinet of Ministers of 3 July 2018 No 395 "Procedure for Coordination and Supervision of Implementation of the European Connecting Europe Facility Projects".

The Parties have concluded this agreement (the "**Agreement**") as follows.

## 1. DEFINITIONS

- 1.1. The Parties agree that in this Agreement the words and phrases are used in their 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. „**Activities**” means activities which are listed in Annexes 1 „Description of the action” to the CEF1, CEF2 and CEF3 Grant Agreements.
  - 1.1.2. “**Agreement on the Contracting Scheme**” means the Agreement on the Contracting Scheme 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 OÜ, Eiropas dzelzceļa līnijas SIA, Akcinė bendrovė Lietuvos geležinkeliai and Rail Baltica statyba UAB, dated 30 September 2016.
  - 1.1.3. “**Action Status Report**” means the Action Status Report, as described in Sections II.23.1 of the CEF1, CEF2 and CEF3 Grant Agreements.
  - 1.1.4. “**Beneficiaries**” mean Ministry of Economic Affairs and Communications of the Republic of Estonia, Ministry of Transport of the Republic of Latvia, the Ministry of Transport and Communications of the Republic of Lithuania and RB Rail AS, in their role as parties to the CEF1, CEF2 and CEF3.
  - 1.1.5. “**Bridge financing**” is a State pre-financing for financing the difference between CEF part of actual and planned eligible costs of CEF activities compared to actual and planned CEF support pre-payments (including the first pre-payment and further pre-



payments under each CEF Grant Agreement) and interim payments for specific year, which shall be returned to the relevant Beneficiary.

- 1.1.6. „**CEF**” means the Connecting Europe Facility established by 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.
- 1.1.7. “**CEF Grant**” means the financial contribution from CEF which the Innovation and Networks Executive Agency (INEA) in its role as the CEF implementing agency has allocated for the implementation of the Rail Baltica project in accordance with the grant agreement concluded with the Beneficiaries.
- 1.1.8. “**CEF1**” means the CEF Grant granted on the basis of the Grant Agreement under the Connecting Europe Facility (CEF) – Transport Sector, Agreement No INEA/CEF/TRAN/M2014/1045990.
- 1.1.9. “**CEF2**” means the CEF Grant granted on the basis of the Grant Agreement under the Connecting Europe Facility (CEF) – Transport Sector, Agreement No INEA/CEF/TRAN/M2015/1129482.
- 1.1.10. “**CEF3**” means the CEF Grant granted on the basis of the Grant Agreement under the Connecting Europe Facility (CEF) – Transport Sector, Agreement No INEA/CEF/TRAN/M2016/1360716.
- 1.1.11. “**Global Project**” means all the activities undertaken by the Parties in order to build, render operational and commercialize the Rail Baltica railway and related railway infrastructure in accordance with the agreed route, technical parameters and time schedule.
- 1.1.12. „**Implementing Bodies**“ means OÜ Rail Baltic Estonia, SIA „Eiropas dzelzceļa līnijas“, UAB „Rail Baltica statyba“, AB „Lietuvos geležinkeliai“ and Estonian Technical Regulatory Authority, as well as shall mean any other implementing body so designated by the Beneficiaries in CEF Grant Agreements in future.
- 1.1.13. “**Inter-Beneficiary Agreement**” means the Inter-Beneficiary Agreement between RB Rail AS and Ministry of Economic Affairs and Communications of the Republic of Estonia, Ministry of Transport of the Republic of Latvia and Ministry of Transport and Communications of the Republic of Lithuania dated 16 June 2016.
- 1.1.14. „**Shareholders**“ means shareholders of RB Rail AS: Rail Baltic Estonia OÜ, SIA „Eiropas dzelzceļa līnijas“ and UAB „Rail Baltica statyba“.
- 1.1.15. “**Shareholders’ Agreement**” means Shareholders’ Agreement relating to RB Rail AS between OÜ Rail Baltic Estonia, Eiropas dzelzceļa līnijas SIA and Rail Baltica statyba UAB, dated 28 October 2014, to which RB Rail AS adhered to on 1 December 2014.

## **2. FINANCING OF RB RAIL AS ACTIVITIES FOR GLOBAL PROJECT IMPLEMENTATION IN 2019**

### **2.1. Share capital**

- 2.1.1. The Shareholders agree to increase the share capital of RB Rail AS in 2019 in equal contribution by each Shareholder as follows:

- 2.1.2. Subject to mandatory processes based on the Statutes of RB Rail AS and provided that the respective amounts of the monetary contributions to be invested into RB Rail AS by the Shareholders are anticipated in the State budget of each respective State and are made available by the respective State, the Shareholders shall ensure, that RB Rail AS shall adopt by 1 June 2019 a decision of the General Meeting on the increase of the share capital from EUR 1,950,012 to EUR 1,950,015. Upon share capital increase a share with a nominal value of EUR 1 shall be issued to each Shareholder.
- 2.1.3. Each Shareholder shall pay for its respective share as follows:
- (a) Rail Baltic Estonia OÜ shall pay a monetary contribution in the amount of EUR 650,000 (six hundred fifty thousand euros), of which EUR 1 (one euro) is for the par value and EUR 649,999 (six hundred forty nine thousand nine hundred ninety nine euros) is for the share premium.
  - (b) Eiropas dzelzceļa līnijas SIA shall pay a monetary contribution in the amount of EUR 650,000 (six hundred fifty thousand euros), of which EUR 1 (one euro) is for the par value and EUR 649,999 (six hundred forty nine thousand nine hundred ninety nine euros) is for the share premium.
  - (c) Rail Baltica statyba UAB shall pay a monetary contribution in the amount of EUR 650,000 (six hundred fifty thousand euros), of which EUR 1 (one euro) is for the par value and EUR 649,999 (six hundred forty nine thousand nine hundred ninety nine euros) is for the share premium.
- 2.1.4. The Shareholders agree to make the payments into the share capital by 31 July 2019. Payment to be made by SIA “Eiropas dzelzceļa līnijas” is subject to the approved budget of the Republic of Latvia and Decision of the Cabinet of Ministers of Latvia.
- 2.1.5. The increased share capital of RB Rail AS should be used up to the following total amounts in 3 (three) equal parts per Shareholder:
- (a) National co-financing of CEF Activities in the amount of EUR 1,255,102 (one million two hundred fifty five thousand one hundred two euros), and
  - (b) Non-eligible costs incurred by RB Rail AS in the amount of EUR 462,898 (four hundred sixty two thousand eight hundred ninety eight euros), and
  - (c) Non-deductable value added tax (VAT) of RB Rail AS up to the amount of EUR 232,000 (two hundred thirty two thousand euros).
- There can be variations between the amounts in sub-paragraphs (a) to (c) each up to 5% from EUR 1,950,000 (one million nine hundred fifty thousand euros) as long as the priority is given to covering national co-financing of CEF Activities, and as long as the total combined amount of EUR 1,950,000 (one million nine hundred fifty thousand euros) is not exceeded. RB Rail AS shall provide prior notice to the Beneficiaries and the Supervisory Board of RB Rail AS in case of such variation. Any larger variation shall be possible subject to Beneficiaries' and Supervisory Board's of RB Rail AS prior approval.
- 2.1.6. In case part of the increased share capital is not used under regulation of clause 2.1.5, RB Rail AS may use the unused part, as well as the unused part of the previously paid share capital, in order to finance RB Rail AS activities of the Global Project included in the RB Rail AS budget which have insufficient financing (e.g., “New activities” proposed during CEF1 amendment process) and which are not financed through other means of financing mentioned in this Agreement, subject to a written agreement by



the Ministry of Economic Affairs and Communications of the Republic of Estonia, the Ministry of Transport of the Republic of Latvia and the Ministry of Transport and Communications of the Republic of Lithuania, or the Supervisory Board of RB Rail AS, as appropriate.

## **2.2. Allocations from State budgets**

2.2.1. Subject to the approved State Budget of the Republic of Latvia for the year 2019 and a decision by the Cabinet of Ministers of the Republic of Latvia, the Ministry of Transport of the Republic of Latvia shall transfer a State subsidy to RB Rail AS in the maximum amount of EUR 1,314,700 (one million three hundred fourteen thousand seven hundred euros), with the purpose to balance between the States represented by the Ministry of Economic Affairs and Communications of the Republic of Estonia, the Ministry of Transport of the Republic of Latvia and the Ministry of Transport and Communications of the Republic of Lithuania the non-deductable (VAT) that will be paid into the State budget of the Republic of Latvia related to 2019 costs, as follows:

- (a) The State subsidy shall be transferred as an advance payment on quarterly basis on the basis of a written statement by RB Rail AS on paid VAT into the State budget of Latvia for the previous quarter;
- (b) The advance payment for the first quarter of 2019 shall be transferred till 31 March 2019 upon a written request by RB Rail AS indicating amounts planned to be paid into the State budget of Latvia in April 2019 and accompanied by a statement on paid VAT into the State budget of Latvia in January - March 2019;
- (c) The advance payments for other quarters of 2019 shall be transferred until the last business day of the preceding quarter.

2.2.2. In case the actually paid non-deductable VAT related to 2019 costs per State differs from the 2019 financed non-deductable VAT per State, balancing of RB Rail AS non-deductable VAT of 2019 among States shall be ensured in 2020, however ensuring that the total amount of the non-deductable VAT which is planned in the budget of RB Rail AS for 2019 is not exceeded. The balancing amount shall be calculated as part of the budget approval process of RB Rail AS and shall be ensured by one of the following means:

- (a) Additional State financing (share capital or State subsidy) in case actual non-deductable VAT paid to the respective State has been larger than financed non-deductable VAT by the respective State, or
- (b) Reduced further State financing (share capital or State subsidy) in case actual non-deductable VAT paid to the respective State has been smaller than the financed non-deductable VAT by the respective State.

2.2.3. In case a national revenue service shall claim from RB Rail AS payment of the VAT in Estonia, Latvia and/or Lithuania which RB Rail AS deducted during the period from 2015 to 2018, the Beneficiary from the State, whose State budget received the VAT in question, shall compensate to RB Rail AS payment of the claimed VAT in equal proportion to the amount of the VAT in question, received by the respective State budget, within 2 (two) months after RB Rail AS performs the payment to the respective national revenue service. For this purpose RB Rail AS shall inform in

writing all Beneficiaries about the received and paid claims. The Parties shall agree separately about the financing of any related costs, such as but not limited to VAT related late payment interest and related penalties.

### **2.3. Financing of Administration cost**

- 2.3.1. The Parties shall aim to finance the CEF eligible administration costs of RB Rail AS, such as but not limited to office rent, utilities and insurance, IT costs, audit expenses and office supplies of RB Rail AS (“**Administration costs**”) through CEF Grants in the amount of EUR 1,505,543 (one million five hundred five thousand five hundred forty three euros) as per RB Rail AS 2019 budget.
- 2.3.2. The Parties shall agree on the source of financing of the Administration costs separately. However, if the source of CEF financing shall not be agreed by the CEF1 amendment planned signature deadline - 1 May 2019 - for the total amount of EUR 1,505,543 (one million five hundred five thousand five hundred forty three euros), then the Administration costs up to EUR 1,505,543 (one million five hundred five thousand five hundred forty three euros) may be financed from the previously (up to the end of 2018) paid share capital of RB Rail AS.

### **2.4. Use of CEF Grant-related budgets**

- 2.4.1. In accordance with a separate agreement between RB Rail AS and the respective Beneficiary, the respective Beneficiary shall enable the covering of eligible direct Activities’ support costs incurred by RB Rail AS for those Activities where the Beneficiary is the Ministry of Economic Affairs and Communications of the Republic of Estonia, the Ministry of Transport of the Republic of Latvia or the Ministry of Transport and Communications of the Republic of Lithuania, and which RB Rail AS implements in accordance with Clause 3.1.2.(a) of the Agreement on the Contracting Scheme, by (1) budget transfers on the basis of Articles II.22 of CEF1, CEF2 and CEF3 Grant Agreements, or (2) making accessible to RB Rail AS the nationally administered financial means of the CEF1, CEF2 and CEF3, or (3) other financing means, as follows:
- (a) EUR 889,210 (eight hundred eighty-nine thousand, two hundred ten euros) related to Activities for the benefit of Parties from Estonia until up to end of 2019. For covering similar costs related to Activities for the benefit of Parties from Estonia within the period 2020-2022 a similar process will be covered in the next financing agreement.
  - (b) EUR 762,934 (seven hundred sixty-two thousand, nine hundred thirty-four euros) related to the Activities for the benefit of Parties from Latvia until up to end of 2019, as follows:
    - (i) EUR 630,914 (six hundred thirty thousand, nine hundred fourteen euros) related to A1.3.2. “Technical assessment of the technical design” and A2.3.3. “Detailed technical design for railway line in Central section”, and
    - (ii) EUR 132,020 (one hundred thirty two thousand twenty euros) related to C2.3.4: “Detailed technical design of railway Northern section in Latvia (Phase I, from Upeslejas to the Vangaži maintenance facilities)” and C6.1.1: “Owners supervision of design and construction, NoBo verification to ensure legal



compliance of the designs and the built infrastructure, to ensure the interoperability of the railway”;

- (c) EUR 645,036 (six hundred forty-five thousand, thirty-six euros) related to North and South Detailed Technical Design Activities for the benefit of Parties from Latvia, subject to inclusion of North and South Detailed Technical Design Activities in CEF1 until up to end of 2019;
- (d) EUR 726,334 (seven hundred twenty six thousand, three hundred thirty four euros) related to Activities for the benefit of Parties from Lithuania until up to end of 2019, as follows:
  - (i) For part of the costs of 2019, reallocation of EUR 334,341.88 (three hundred thirty four thousand three hundred forty one euro and eighty eight eurocents) from the CEF1 eligible cost budget of the Activity No 24 A2.4.1. “The technical design for the construction of the new line from Kaunas to LT/LV border”. Such reallocations shall not be interpreted as allowing RB Rail AS to exceed (for contract signing and/or approval of invoices) the remaining budget for the Activity No 24 A2.4.1. “The technical design for the construction of the new line from Kaunas to LT/LV border”, which is approved in CEF1;
  - (ii) For costs incurred during 2017 - 2018, reallocation of EUR 137,943 (one hundred thirty seven thousand nine hundred forty three euros) from the CEF2 eligible cost budget of the Activity No 7 B1.4.1: “Study on upgrading the 1435 mm gauge railway line in section “PL/LT state border - Kaunas - RRT Palemonas” to traffic codes P2 and F1 of the INF TSI of 2014 and Global Project standards”;
  - (iii) The remaining part of the costs for period until up to end of 2019 will be agreed in a separate agreement between RB Rail AS and the Ministry of Transport and Communications of the Republic of Lithuania 1 (one) month after signing the contract for the last of the two Design and design supervision service tenders, be it for the construction of the new line from Kaunas to Ramygala or from Ramygala to LT/LV border, but in any event not later than 30 August 2019. If until 30 August 2019 contracts in the mentioned tenders are not signed, RB Rail AS and the Ministry of Transport and Communications of the Republic of Lithuania shall agree on alternative source of funding and sign an appropriate agreement not later than 13 September 2019. All Parties agree to take effective actions to agree on this matter if possible before the finalization of drafting of corresponding Interim Report (Request for Interim payments) for reporting period 2017-2018.

- 2.4.2. The amounts which are mentioned in Clause 2.4.1 are the planned maximum amounts and in case of savings of direct support costs by the end of the respective Activity RB Rail AS shall re-allocate the savings back to the respective Beneficiary.



## **2.5. Bridge financing**

2.5.1. The Beneficiaries shall ensure Bridge financing in 2019 to RB Rail AS in the amount of EUR 2,534,077 (two million five hundred thirty-four thousand seventy-seven euros) each, for the planned eligible costs. The Bridge financing in 2019 is planned only for CEF1 and CEF3 activities where Beneficiary is RB Rail AS. The Bridge financing shall be ensured as follows:

- (a) Bridge financing from Estonia shall be ensured and transferred through money transfers from Ministry of Economic Affairs and Communications of the Republic of Estonia to RB Rail AS by 30 April 2019 based on a bilateral agreement referred to in Clause 2.4.1.
- (b) Bridge financing from Latvia shall be ensured by withholding of dedicated part from CEF further pre-financing payments.
- (c) Bridge financing from Lithuania shall be ensured through money transfer from the Ministry of Finance of Lithuania based on a debit note to be sent by RB Rail AS to the Ministry of Finance of Lithuania, with a copy to the Ministry of Transport and Communications of the Republic of Lithuania, within 1 (one) month after receiving the debit note. The requested amount of Bridge financing shall not exceed the available and unused amount of CEF financing which has already been received by the Ministry of Transport and Communications of the Republic of Lithuania before issuing of the debit note.
- (d) The forecast for the needed Bridge financing shall be updated in the future through regular reports, inter alia based on the Annual Status Report that will be submitted by 31 March 2019. The amount of the Bridge financing to be ensured by each Beneficiary shall be changed only with an agreement between the Beneficiaries.
- (e) RB Rail AS shall transfer back or compensate to the respective Beneficiaries the received Bridge financing in equal parts not later than within 10 (ten) business days after one of the below pre-conditions set in:
  - (i) Submission of Action Status Report and if the actual Bridge financing amount which was used for the particular Activity during the previous year was smaller than the received Bridge financing amount for the particular Activity for the previous year. In this case RB Rail AS shall transfer back to the respective Beneficiary the unused amount of the Bridge financing for the particular Activity, unless with an approval by the respective Beneficiary RB Rail AS withholds the payment due to further year's Bridge financing needs.
  - (ii) The decision (letter) by INEA to offset interim payments or final payment of the balance against available funds (pre-financing or interim payment) or other scenarios in accordance with CEF1, CEF2 or CEF3, where INEA will not proceed with interim payment or final payment of the balance (for example but not limited to: costs are found to be non-eligible), or will proceed with partial payments for the respective year's eligible costs of the respective Activity. In this case RB Rail AS shall transfer back to

the respective Beneficiary the unused amount, or an amount equivalent to non-eligible costs, of the Bridge financing for the particular Activity, unless with an approval by the respective Beneficiary RB Rail AS withholds the payment due to further year's Bridge financing needs.

- (iii) Receiving CEF interim payment or final payment of the balance for the respective year's eligible costs of the respective Activity, unless with an approval by the respective Beneficiary RB Rail AS withholds the payment due to further year's Bridge financing needs.
  - (f) In any case RB Rail AS shall fully transfer back or compensate to the respective Beneficiary the received Bridge financing not later than within 10 (ten) business days after either submitting to INEA an interim report without requesting interim payment for the respective Activity or after receiving from INEA the final payment of the balance for the respective Activity.
  - (g) The principles of sub-paragraphs (e) and (f) shall be applied during 2019 and onwards, unless agreed otherwise by the Parties.
- 2.5.2. In order to implement Clause 2.1.1 of this Agreement, the Shareholders agree to conclude an amendment to the Shareholders' Agreement which is attached as Appendix 1.
- 2.5.3. In order to implement Clauses 2.4.1 and 2.5.1 of this Agreement, the Beneficiaries and RB Rail AS agree to conclude the needed agreements or other arrangements until 30 April 2019, except the agreement referred to in Clause 2.4.1(d)(iii). For the avoidance of doubt the Parties agree that Parties shall implement Clause 2.4.1 and 2.5.1 of this Agreement without concluding separate amendments to the Inter-Beneficiary Agreement.

### **3. FINANCING OF RB RAIL AS, STARTING FROM 1 JANUARY 2020 AND ONWARDS**

- 3.1. The Parties shall discuss conceptual approach to the financing of RB Rail activities for Global Project implementation during first half of 2019 and conclude an agreement on sustainable financing of the operation of RB Rail AS activities in relation to the implementation of the Global Project from 2020 and onwards before 30 September 2019.
- 3.2. RB Rail AS financing shall be based on equity payments unless another financing method is agreed by the Parties.

### **4. APPLICABLE LAW**

- 4.1. This agreement is governed by the laws of Latvia.

### **5. DISPUTE RESOLUTION AND JURISDICTION**

- 5.1. 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.



- 5.2. If 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.
- 5.3. 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.
- 5.4. 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.
- 5.5. 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.
- 5.6. 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 1 (one) month and not later than 2 (two) 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.
- 5.7. 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.
- 5.8. Voting at the Dispute Resolution Committee can take place in a meeting or through correspondence, including e-mail.
- 5.9. The Parties shall follow the Dispute Resolution Committee's decision.
- 5.10. The Parties agree that, in case the decision by the Dispute Resolution Committee is not reached or followed, the interested Party may refer the issue to the Cabinet of Ministers of the respective Party and invite the members of the Cabinet of Ministers to resolve the issue on a political level.

## **6. FORCE MAJEURE**

- 6.1. "Force majeure" shall mean any unforeseeable exceptional situation or event beyond a Parties' control, which prevents either of them from fulfilling any of their

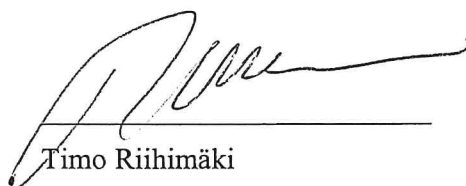
obligations under this Agreement, which was not attributable to error or negligence on their part and which proves to be inevitable in spite of exercising all due diligence. Any default of a service, defect of equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure, as well as labour disputes, strikes or financial difficulties, including lack of public financing, cannot be invoked as force majeure.

- 6.2. A Party faced with force majeure shall formally notify in writing other Parties without delay, stating the nature, likely duration and foreseeable effects.
- 6.3. 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 Global 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 Global Project as soon as possible.
- 6.4. 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.

## **7. MISCELLANEOUS**

- 7.1. 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.
- 7.2. This Agreement 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.
- 7.3. 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.
- 7.4. 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.
- 7.5. In witness thereof, the Parties have signed this Agreement in 7 (seven) original authentic copies, 1 (one) original copy for each Party.

## **8. SIGNATURES OF THE PARTIES**



Timo Riihimäki



on behalf of RB Rail AS

Date: 2019 01 26



Ignas Degutis

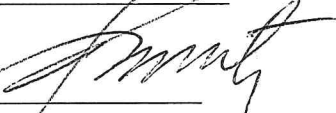
on behalf of RB Rail AS

Date: 2019 01 26



Ando Leppiman on behalf of Ministry of Economic Affairs and Communications of the Republic of Estonia

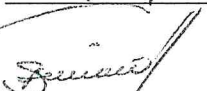
Date: 29.3.2019



Tālis Linkaits

on behalf of Ministry of Transport of the Republic of Latvia

Date: 29.04.2019



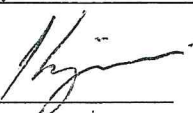
Andrius Šniūolis on behalf of Ministry of Transport and Communications of the Republic of Lithuania

Date: 09.04.2019



Riia Sillave on behalf of Rail Baltic Estonia OÜ

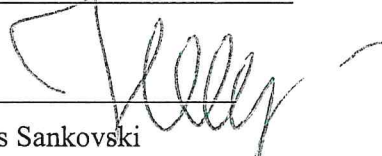
Date: 27.03.2019



~~Andris Linužs~~ *Karolis Sankovskis*

on behalf of Eiropas dzelzceļa līnijas SIA

Date: 26.04.2019.



Karolis Sankovskis

on behalf of Rail Baltica statyba UAB

Date: 03.04.2019

APPENDIX 1

**AMENDMENT NO 2  
TO THE SHAREHOLDERS' AGREEMENT**

These amendments to the Shareholders' Agreement of 28 October 2014 (the "**Amendments**") are entered into on 26 March 2019 by the following parties:

- (1) **Rail Baltic Estonia OÜ**, a company registered under the laws of the Republic of Estonia, with the register number 12734109, ("**Estonian Shareholder**") represented by [●];
- (2) **Eiropas dzelzceļa līnijas SIA**, a company registered under the laws of the Republic of Latvia, with the register number 401103836785, ("**Latvian Shareholder**") represented by [●];
- (3) **Rail Baltica statyba UAB**, a company registered under the laws of the Republic of Lithuania, with the register number 303227458, ("**Lithuanian Shareholder**") represented by [●];

hereinafter Estonian Shareholder, Latvian Shareholder, Lithuanian Shareholder are collectively referred to as the "**Parties**", and each individually as the "**Party**",

Taking into account that:

- (A) On 28 October 2014 the Parties have signed a shareholders agreement (the "**SHA**") according to which the Parties had agreed to create a joint venture to implement a Rail Baltica project.
- (B) The Shareholders have agreed to carry out further cash equity investment and are willing to agree on the terms and conditions.

The Parties have agreed to make the following amendments to the SHA:

1. To express clause 4.6. as follows:  
"4.6. Subsequent to the registration of the Company, the Shareholders have agreed to carry out further cash equity investments through five increases of the Share Capital provided that the respective amounts of the monetary contributions are anticipated in the state budget of each respective State and are made available by the respective State to be invested into the Company by the Shareholders. Each Shareholder shall use its reasonable efforts to ensure that the state budgets of the respective State for the respective year includes the monetary contributions set forth in this Clause. Each of the Share Capital increases shall be done so that the proportion of the shareholding of the Shareholders in the Company as set forth in Clause 4.3 remains the same. Each Shareholder hereby commits to pay further EUR 3 250 000 (three million two hundred fifty thousand) into the equity of the Company through the Share Capital increases (unless otherwise agreed in the Business Plan and agreed by the Shareholders):"
2. To supplement the SHA with a new clause 4.6.5 as follows:  
"4.6.5. The Shareholders shall ensure that by 1 June 2019 the Company convenes the General Meeting and the General Meeting adopts a decision on increase of the Share Capital from EUR 1 950 012 (one million nine hundred fifty thousand twelve euro) to EUR 1 950 015 (one million nine hundred fifty thousand fifteen). Upon increase of the Share Capital each Shareholder shall subscribe for one share with a nominal



value of EUR 1 (one) and each Shareholder shall pay for the new share with a monetary contribution in the amount of EUR 650 000 (six hundred fifty thousand) of which EUR 1 (one) is for the par value and EUR 649 999 (six hundred forty nine thousand nine hundred ninety nine) is for the Share Premium. The Shareholders agree to make the payment for the new shares by 31 August 2019 as described in this Clause above and to procure that the Company completes the registration of the Share Capital increase with the Company Register of the Republic of Latvia in due term."

3. All other terms and conditions of the SHA remain valid and unchanged.
4. The terms used in these Amendments with capital letters have the same meaning as defined in the SHA unless these Amendments provide otherwise
5. The Amendments enter into force on the date when signed by all Parties.
6. These Amendments shall be governed by and construed in accordance with the laws of the Republic of Latvia.
7. Any dispute, controversy or claim arising out of or in connection with these Amendments or the breach, termination or invalidity thereof ("Dispute") shall be resolved on an amicable basis.
8. If the Dispute remains unsolved within a period of thirty (30) days from the service of the formal written notice requesting to solve the Dispute on an amicable basis, the Dispute shall be finally settled by arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. This shall not affect a Party's rights, where appropriate, to seek interim measures as set forth in the Arbitration Rules. The seat of the arbitration shall be Stockholm, Sweden. Language of the arbitral proceedings shall be English. The arbitral tribunal shall be composed of three arbitrators. All three arbitrators shall be appointed by the board of the Arbitration Institute.
9. Any amendment to these Amendments shall be in writing and shall have no effect before signed by the duly authorized representatives of all Parties.
10. These Amendments shall be considered as an integral part of the SHA. In case any disagreement should arise with respect to the terms of these Amendments and as stated in the initial version of the SHA, the Amendments shall prevail.
11. For the ease of reference, the Parties have agreed to approve the revised consolidated version of the SHA as enclosed.
12. These Amendments have been executed in 3 (three) identical counterparts in English language, each Party shall retain one counterpart. These Amendments have been signed by the duly authorized representatives of the Parties.

[•]

on behalf of Rail Baltic Estonia OÜ

[•]

on behalf of Eiropas dzelzceļa līnijas SIA

[•]

on behalf of Rail Baltica statyba UAB