



## CHISINAU CITY HALL

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July 29, 2022

Our ref: MILL/S/DTMC/2022

### INVITATION TO TENDER FOR DESIGN OF THE TRAFFIC MONITORING CENTER

Dear Sir/ Madam,

I am pleased to inform you that *your firm / the consortium led by you* is invited to take part in the simplified procedure for the above contract. The complete tender dossier is attached to this letter. It includes:

- A. Instructions to tenderers and contract notice**
- B. Draft contract agreement and special conditions with annexes:**
  - I. General conditions for service contracts
  - II. Terms of reference
  - III. Organisation and methodology (to be submitted by the tenderer using the template provided)
  - IV. Budget (to be submitted by the tenderer as the financial offer using the template provided)
  - V. Forms and other supporting documents
- C. Other information:**
  - I. List of entities invited to submit a tender
  - II. Administrative compliance grid
  - III. Evaluation grid
- D. Tender submission form and declaration of honour on exclusion and selection criteria**

For full details of the tendering procedures, please see the **practical guide and its annexes** (PRAG2019), which may be downloaded from the following website:

<http://ec.europa.eu/europeaid/prag/document.do>

We look forward to receiving your tender which has to be sent no later than the deadline set in point 8 of the Instructions to Tenderers. Please send it to the address and with the requirements given in point 8. By submitting a tender you accept to receive notification of the outcome of the procedure by electronic means. If you decide not to submit a tender, we would be grateful if you could inform us in writing, indicating the reasons for your decision.

Yours sincerely,

Ilie CEBAN

Deputy Mayor

**A. Instructions to tenderers  
and contract notice**

# INSTRUCTIONS TO TENDERERS

REFERENCE: MILL/S/DTMC/2022

When submitting their tenders, tenderers must follow all instructions, forms, terms of reference, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified may lead to the rejection of the tender.

These instructions set out the rules for submitting, selecting and implementing contracts financed under this call for tenders, in conformity with the practical guide (PRAG 2019), (available on the internet at this address: <http://ec.europa.eu/europeaid/prag/document.do> ).

## 1. Services to be provided

The services required by the contracting authority are described in the terms of reference. They are set out in Annex II to the draft contract, which forms Part B of this tender dossier.

## 2. Timetable

	DATE	TIME*
Deadline for requesting clarification from the contracting authority	August 17, 2022	15:00
Last date for the contracting authority to issue clarification	August 27, 2022	-
Deadline for submitting tenders	September 7, 2022	15:00
Interviews (if any)	Not applicable <input type="checkbox"/>	-
Completion date for evaluating technical offers	October 7, 2022 <input type="checkbox"/>	-
Notification of award	October 17, 2022 <input type="checkbox"/>	-
Contract signature	November 7, 2022 <input type="checkbox"/>	-
Start date	November 7, 2022 <input type="checkbox"/>	-

\* All times are in the time zone of the country of the contracting authority

Provisional date

## 3. Participation, experts and subcontracting

- a) Participation in this tender procedure is open only to the invited tenderers. For the eligibility, please see point 10 of the contract notice.
- b) Natural or legal persons are not entitled to participate in this tender procedure or be awarded a contract if they are in any of the situations mentioned in Sections 2.4. (EU restrictive measures), 2.6.10.1.(exclusion criteria) or 2.6.10.1.1. (rejection from a procedure) of the **practical guide**. Should they do so, their tender will be considered unsuitable or irregular respectively.
- c) In the cases listed in Section 2.6.10.1.1. of the **practical guide** tenderers may be excluded from EU financed procedures and be subject to financial penalties up to 10%

of the total value of the contract in accordance with the Financial Regulation in force. . This information may be published on the Commission website in accordance with the Financial Regulation in force.

- d) The contract between the tenderer/contractor and its experts shall contain a provision that it is subject to the approval of the partner country. It is furthermore recommended that this contract contains a dispute resolution clause.
- e) Subcontracting is allowed but the contractor will retain full liability towards the contracting authority for performance of the contract as a whole. If the tenderer intends to subcontract one or more parts of the contracted services, this must be clearly stated in the organisation and methodology and the tender submission form.
- f) All subcontractors must be eligible for the contract.
- g) Subcontractors cannot be in any of the exclusion situations listed in Section 2.6.10.1 of the practical guide.

#### 4. Content of tenders

Offers, all correspondence and documents related to the tender exchanged by the tenderer and the contracting authority must be written in English.

Supporting documents and printed literature furnished by the tenderer may be in another language, provided they are accompanied by a translation into the language of the procedure. For the purposes of interpreting the tender, the language of the procedure has precedence.

The tender must include a technical offer and a financial offer, which must be submitted in separate envelopes (see clause 8). Each technical offer and financial offer must contain one original, clearly marked '**Original**', and one (double sided printing) copy, marked '**Copy**'. Failure to fulfil the requirements in clauses 4.1, 4.2 and 8 will constitute an irregularity and may result in rejection of the tender.

##### 4.1. Technical offer

The technical offer must include the following documents:

- (1) **Tender submission form** (see Part D of this tender dossier) including:
  - a) A signed **declaration** together with a signed "Declaration on honour on exclusion criteria and selection criteria"<sup>1</sup> from each legal entity identified in the tender submission form, using the format attached to the tender submission form.
  - b) A completed **financial identification form** (see Annex V to the draft contract) to indicate the bank account into which payments should be made if the tender is successful. (If the tenderer has already signed another contract with the European Commission, it may provide instead either its financial identification form number or a copy of the financial identification form provided on that occasion, unless it has changed in the meantime).
  - c) The **legal entity file** and supporting documents (if the tenderer has already signed another contract with the European Commission, it may provide instead either its

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<sup>1</sup> See PRAG 2.6.10.1.3 A)

legal entity number or a copy of the legal entity file provided on that occasion, unless it has changed its legal status in the meantime).

- d) Duly authorised signature: an official document (statutes, power of attorney, notary statement, etc.) proving that the person who signs on behalf of the company/joint venture/consortium is duly authorised to do so.
- (2) **Organisation and methodology** (will become Annex III to the contract), to be drawn up by the tenderer using the format in Annex III to the draft contract.
- (3) Non key experts may also be instrumental to achieve the contract objectives. However, they are not subject to evaluation by the evaluation committee. Their positions and responsibilities may be defined in Section 6.1.2 of the terms of reference in Annex II to the draft contract.
- (4) Documentary proof or statements required under the law of the country in which the company (or each of the companies for consortia) is effectively established, to show that it is not in any of the exclusion situations listed in Section 2.6.10.1 of the practical guide. This evidence, documents or statements must be dated, no more than one year before the date of submission of the tender. In addition, a statement must be furnished stating that the situations described in these documents have not changed since then.

If the nature of your entity is such that it cannot fall into the exclusion situations and/or cannot provide the documents indicated above (for instance, national public administrations and international organisations), please provide a declaration explaining this situation.

The contracting authority may waive the obligation of any tenderer to submit the documentary evidence referred to above based on a risk assessment, or if such evidence has already been submitted for the purposes of another procurement procedure, provided that the issue date of the documents does not exceed one year and that they are still valid. In this case, the tenderer must declare on his/her honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that his/her situation has not changed.

- (5) No documentary evidence of the selection criteria in point 16 of the contract notice shall be submitted but no pre-financing will be granted.

If the documentary evidence submitted is not written in one of the official languages of the European Union, a translation into the language of the procedure must be attached. Where the documents are in an official language of the European Union other than the one of the procedure, it is however strongly recommended to provide a translation into the language of the procedure, in order to facilitate the evaluation of the documents. Documentary proof or statements may be in original or copy. If copies are submitted, the originals must be available to send to the contracting authority upon request.

Tenderers are reminded that the provision of false information in this tender procedure may lead to the rejection of their tender and to their exclusion from EU-funded procedures and contracts.

The electronic version of the technical offer must be included with the printed version in the separate envelope in which the technical offer is submitted. If there are any discrepancies between the electronic version and the original, printed version, the latter has precedence.

## 4.2. Financial offer

The financial offer must be presented as an amount in Euro<sup>2</sup> and must be submitted using the template for the global-price version of Annex IV to part B of this tender dossier. The electronic version of this document 'B8 — Budget for a global-price contract' can be found on the website

<http://ec.europa.eu/europeaid/prag/document.do>.

The global price may be broken down by outputs if required from the terms of reference.

Tenderers are reminded that the maximum budget available for this contract, as stated in the contract notice, is EUR 40,000.00. Payments under this contract will be made in the currency of the tender (except residents).

The applicable tax and customs arrangements are as follows:

### Exemption of taxes

The of the European Commission and the Republic of Moldova have agreed in Framework Agreement regarding technical assistance, signed in Brussels on 11 May 2006, ratified through Law no. 426-XVI of 27 December 2006, to exempt from: VAT, customs duties, excise duties and customs procedure taxes in the Contracting Authority's country as per Annex 2 of the Government Decision no. 246 dated 8 April 2010.

## 5. Variant solutions

Tenderers are not authorised to tender for a variant in addition to this tender.

## 6. Period during which tenders are binding

Tenderers are bound by their tenders for 90 days after the deadline for submitting tenders or until they have been notified of non-award.

The selected tenderer must maintain its tender for a further 60 days. A further period of 60 days is added to the validity period irrespective of the date of notification. This period can be further extended when the contracting authority is required to obtain the recommendation of the panel referred to in Section 2.6.10.1.1 of the practical guide, up to the adoption of that recommendation.

## 7. Additional information before the deadline for submitting tenders

The tender dossier should be clear enough to avoid tenderers having to request additional information during the procedure. If the contracting authority, either on its own initiative or in response to a request from a tenderer, provides additional information on the tender dossier, it must send such information in writing to all the tenderers at the same time.

Tenderers may submit questions in writing to the following address up to 21 days before the deadline for submission of tenders, specifying the publication reference and the contract title:

Contact name: Ms. Ruxandra MACARI

Address: office 25, 83 Stefan cel Mare si Sfânt Blvd., MD-2012 Chişinău, Republic of Moldova

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<sup>2</sup> The currency of the tender is the currency of the contract and the currency of payment.

E-mail: [macari.ruxandra@pmc.md](mailto:macari.ruxandra@pmc.md)  
[procurement@mill.md](mailto:procurement@mill.md)

All updates referring to this tender procedure can be accessed on the:

- <https://chisinau.md/libtdview.php?l=ro&idc=1245&id=39306&t=/Informatii/Licitatii-si-achizitii/Licitatii-MOVE-IT-LIKE-LUBLIN/Tender-Design-of-the-Traffic-Monitoring-Center/>
- [www.mill.md/tender/](http://www.mill.md/tender/)

The contracting authority has no obligation to provide clarification after this date.

Any tenderer seeking to arrange individual meetings with the contracting authority and/or the government of the partner country and/or the European Commission concerning this contract during the tender period may be excluded from the tender procedure.

No information meeting or site visit is foreseen.

## 8. Submission of tenders

Tenders must be sent to the contracting authority before **September 7, 2022, 15:00**. They must include the requested documents in clause 4 above and be sent:

- **EITHER** by post or by courier service, in which case the evidence shall be constituted by the postmark or the date of the deposit slip<sup>3</sup>, to:

Address of contracting authority  
Chisinau City Hall

- office 25, 83 Stefan cel Mare si Sfanta Blvd., MD-2012 Chisinau, Republic of Moldova **OR** hand delivered by the participant in person or by an agent directly to the premises of the contracting authority in return for a signed and dated receipt, in which case the evidence shall be constituted by this acknowledgement of receipt, to:

Address of contracting authority  
Chisinau City Hall  
office 25, 83 Stefan cel Mare si Sfanta Blvd., MD-2012 Chisinau, Republic of  
Moldova

### **Tenders submitted by any other means will not be considered.**

The contracting authority may, for reasons of administrative efficiency, reject any tender submitted on time to the postal service but received, for any reason beyond the contracting authority's control, after the effective date of approval of the short-list report or of the evaluation report, if accepting tenders that were submitted on time but arrived late would considerably delay the evaluation procedure or jeopardise decisions already taken and notified.

Tenders must be submitted using the double envelope system, i.e., in an outer parcel or envelope containing two separate, sealed envelopes, one bearing the words '**Envelope A — Technical offer**' and the other '**Envelope B — Financial offer**'. All parts of the tender other

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<sup>3</sup> It is recommended to use registered mail in case the postmark would not be readable.

than the financial offer must be submitted in Envelope A (i.e. including the tender submission form, statements of exclusivity and availability of the key experts and declarations).

The outer envelope should provide the following information:

- a) the address for submitting tenders indicated above;
- b) the reference code of the tender procedure (i.e. **MILL/S/DTMC/2022**);
- c) the words ‘**Not to be opened before the tender-opening session**’ and ‘**Nu deschideți înainte de ședința de deschidere a ofertelor**’;
- d) the name of the tenderer.

The pages of the technical and financial offers must be numbered.

## **9. Amending or withdrawing tenders**

Tenderers may amend or withdraw their tenders by written notification prior to the deadline for submitting tenders. Tenders may not be amended after this deadline.

Any such notification of amendment or withdrawal must be prepared and submitted in accordance with Clause 8. The outer envelope (and the relevant inner envelope) must be marked ‘Amendment’ or ‘Withdrawal’ as appropriate.

## **10. Costs for preparing tenders**

No costs incurred by the tenderer in preparing and submitting the tender are reimbursable. All such costs must be borne by the tenderer, including the cost of interviewing proposed experts.

## **11. Ownership of tenders**

The contracting authority retains ownership of all tenders received under this tendering procedure. Consequently, tenderers do not have the right to have their tenders returned to them.

## **12. Evaluation of tenders**

### **12.1. Evaluation of technical offers**

The quality of each technical offer will be evaluated in accordance with the award criteria and the weighting detailed in the evaluation grid in Part C of this tender dossier. No other award criteria will be used. The award criteria will be examined in accordance with the requirements indicated in the terms of reference.

The evaluation of the technical offers will follow the procedures set out in Section 3.3.10 of the practical guide (available on the internet at <http://ec.europa.eu/europeaid/prag/document.do>).

#### **12.1.1. Interviews**

No interviews are foreseen.



## 12.2. Evaluation of financial offers

Upon completion of the technical evaluation, the envelopes containing the financial offers for tenders that were not eliminated during the technical evaluation will be opened (i.e. those with an average score of 75 points or more). Tenders exceeding the maximum budget available for the contract are unacceptable and will be eliminated.

## 12.3. Choice of selected tenderer

The best price-quality ratio is established by weighing technical quality against price on an 80/20 basis.

## 12.4. Confidentiality

The entire evaluation procedure is confidential, subject to the contracting authority's legislation on access to documents. The evaluation committee's decisions are collective and its deliberations are held in closed session. The members of the evaluation committee are bound to secrecy. The evaluation reports and written records are for official use only and may be communicated neither to the tenderers nor to any party other than the contracting authority, the European Commission, the European Anti-Fraud Office and the European Court of Auditors.

## 13. Ethics clauses / Corruptive practices

### a) Absence of conflict of interest

The tenderer must not be affected by any conflict of interest and must have no equivalent relation in that respect with other tenderers or parties involved in the project. Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or the contracting authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties according to the Financial Regulation in force.

### b) Respect for human rights as well as environmental legislation and core labour standards

The tenderer and its staff must comply with human rights and applicable data protection rules. In particular and in accordance with the applicable basic act, tenderers and applicants who have been awarded contracts must comply with the environmental legislation including multilateral environmental agreements, and with the core labour standards as applicable and as defined in the relevant International Labour Organisation conventions (such as the conventions on freedom of association and collective bargaining; elimination of forced and compulsory labour; abolition of child labour).

<b>Zero tolerance for sexual exploitation and sexual abuse:</b>
The European Commission applies a policy of 'zero tolerance' in relation to all wrongful conduct which has an impact on the professional credibility of the tenderer.
Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited.

### c) Anti-corruption and anti-bribery

The tenderer shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption. The European Commission reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process or during the execution of a contract and if the contracting authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, 'corrupt practices' are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or execution of a contract already concluded with the contracting authority.

d) Unusual commercial expenses

Tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a payee who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

Contractors found to have paid unusual commercial expenses on projects funded by the European Union are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving EU funds.

e) Breach of obligations, irregularities or fraud

\_\_\_\_\_The contracting authority reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to breach of obligations, irregularities or fraud. If breach of obligations, irregularities or fraud are discovered after the award of the contract, the contracting authority may refrain from concluding the contract.

## **14. Signature of contract(s)**

### **14.1. Notification of award**

The successful tenderer will be informed in writing that its tender has been accepted.

### **14.2. Signature of the contract(s)**

Within 30 days of receipt of the contract already signed by the contracting authority, the selected tenderer shall sign and date the contract and return it to the contracting authority.

Failure of the selected tenderer to comply with this requirement may constitute grounds for annulling the decision to award the contract. In this event, the contracting authority may award the tender to another tenderer or cancel the tender procedure.

The other tenderers will, at the same time as the notification of award is submitted, be informed that their tenders were not retained, by electronic means or standard letter, including an indication of the relative weaknesses of their tender by way of a comparative table of the scores for the winning tender and the unsuccessful tender. The second best tenderer is informed of the notification of award to the successful tenderer with the reservation of the possibility to receive a notification of award in case of inability to sign the contract with the first ranked tenderer. The validity of the offer of the second best tenderer will be kept. The second tenderer may refuse the award of the contract if, when receiving a notification of award, the 90 days of validity of their tender has expired.

The contracting authority will furthermore, at the same time, also inform the remaining unsuccessful tenderers and the consequence of these letters will be that the validity of their offers must not be retained.

## **15. Cancellation of the tender procedure**

In the event of cancellation of the tender procedure, the contracting authority will notify tenderers of the cancellation. If the tender procedure is cancelled before the outer envelope of any tender has been opened, the unopened and sealed envelopes will be returned to the tenderers.

Cancellation may occur, for example, where:

- the tender procedure has been unsuccessful, i.e. no suitable, qualitatively or financially acceptable tender has been received or there is no valid response at all;
- there are fundamental changes to the economic or technical data of the project;
- exceptional circumstances or force majeure render normal performance of the contract impossible;
- all technically acceptable tenders exceed the financial resources available;
- there have been breach of obligations, irregularities or frauds in the procedure, in particular if they have prevented fair competition;
- the award is not in compliance with sound financial management, i.e. does not respect the principles of economy, efficiency and effectiveness (e.g. the price proposed by the tenderer to whom the contract is to be awarded is objectively disproportionate with regard to the price of the market).

In no event shall the contracting authority be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure, even if the contracting authority has been advised of the possibility of damages. The publication of a contract notice does not commit the contracting authority to implement the programme or project announced.

## **16. Appeals**

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. See Section 2.12. of the practical guide.

## **17. Data Protection**

Processing of personal data related to this tender procedure by the contracting authority takes place in accordance with the national legislation of the state of the contracting authority and with the provisions of the respective financing agreement.

The tender procedure and the contract relate to an external action funded by the EU, represented by the European Commission. If processing your reply to the invitation to tender involves transfer of personal data (such as names, contact details and CVs) to the European Commission, they will be processed solely for the purposes of the monitoring of the procurement procedure and of the implementation of the contract by the Commission, for the latter to comply with its obligations under the applicable legislative framework and under the financing agreement concluded between the EU and the Partner Country without prejudice to

possible transmission to the bodies in charge of monitoring or inspection tasks in application of EU law. For the part of the data transferred by the contracting authority to the European Commission, the controller for the processing of personal data carried out within the Commission is the head of contracts and finance unit R4 of DG Neighbourhood and Enlargement Negotiations.

Details concerning processing of your personal data by the Commission are available on the privacy statement at:

<http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A>

In cases where you are processing personal data in the context of participation to a tender (e.g. CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) you shall accordingly inform the data subjects of the possible transmission of their data to EU institutions and bodies and communicate the above mentioned privacy statement to them.

## **18. Early detection and exclusion system**

The tenderers and, if they are legal entities, persons who have powers of representation, decision-making or control over them, are informed that, should they be in one of the situations of early detection or exclusion, their personal details (name, given name if natural person, address, legal form and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the early detection and exclusion system,, and communicated to the persons and entities concerned in relation to the award or the execution of a procurement contract.

**SERVICE CONTRACT NOTICE**  
**DESIGN OF THE TRAFFIC MONITORING CENTER**  
**Chişinău – Republic of Moldova**

**1. Reference**

MILL/S/DTMC/2022

**2. Procedure**

Simplified

**3. Programme title**

“MOVE IT like Lublin — a Chisinau public transport sustainable development initiative”

**4. Financing**

BGUE-B2019-21.020802-C1 -DEVCO

**5. Contracting authority**

City Hall of Chisinau Municipality (Republic of Moldova)

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**CONTRACT SPECIFICATION**

**6. Nature of contract**

Global price

**7. Contract description**

The City Hall seeks to create a Traffic Monitoring Center (TMC), a unit with competent trained staff, that will have the task to not only organise on-going data collection, but also interpret those data sets and generate valuable insights. Later it can turn into ways to effectively improve people’s commuting. The TMC will integrate in the future a traffic lights supervision system.

The overall objective of the TMC is to provide smart traffic solutions using latest ITS (intelligent transport systems) for improving the traffic flows by reducing traffic congestion in peak hours (redirecting traffic from the dense streets). This will give local authorities appropriate tools to launch data-based decision making as the standard decision-making protocol. The TMC will make it a priority to publish, as much data as legally possible, as open data.

**8. Number and titles of lots**

One lot only

**9. Maximum budget**

EUR 40,000.00

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## CONDITIONS OF PARTICIPATION

### 10. Eligibility

Participation is open to all legal persons participating either individually or in a grouping (consortium) of tenderers which are effectively established in a Member State of the European Union or in an eligible country or territory as defined under the Regulation (EU) No 236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable instrument under which the contract is financed (see also heading 23 below). Participation is also open to international organisations.

Please be aware that after the United Kingdom's withdrawal from the EU, the rules of access to EU procurement procedures of economic operators established in third countries will apply to candidates or tenderers from the United Kingdom depending on the outcome of negotiations. In case such access is not provided by legal provisions in force at the time of contract award, candidates or tenderers from the United Kingdom could be rejected from the procurement procedure.

### 11. Number of tenders

No more than one tender can be submitted by a legal person whatever the form of participation (as an individual legal entity or as leader or member of a consortium submitting a tender). In the event that a legal person submits more than one tender, all tenders in which that person has participated will be excluded.

### 12. Grounds for exclusion

As part of the tender, tenderers must submit a signed declaration, included in the tender form, to the effect that they are not in any of the exclusion situations listed in Section 2.6.10.1. of the practical guide.

Tenderer included in the lists of EU restrictive measures (see Section 2.4. of the PRAG) at the moment of the award decision cannot be awarded the contract.

### 13. Sub-contracting

Subcontracting is allowed.

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## PROVISIONAL TIMETABLE

### 14. Provisional commencement date of the contract

November 2022

### 15. Implementation period of the tasks

4 months

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## SELECTION AND AWARD CRITERIA

### 16. Selection criteria

The following selection criteria will be applied to the tenderers. In the case of tenders submitted

by a consortium, these selection criteria will be applied to the consortium as a whole. If not specified otherwise. The selection criteria will not be applied to natural persons and single-member companies when they are sub-contractors.

**1) Economic and financial capacity of the tenderer** (based on item 3 of the tender form). In case of tenderer being a public body, equivalent information should be provided. The reference period which will be taken into account will be the last three financial years for which accounts have been closed.

- The annual turnover of the candidate for each of the last 3 (three) closed financial years must be at least EUR 60,000.00;
- Current ratio (current assets/current liabilities) in the last year for which accounts have been closed must be at least 1. In case of a consortium this criterion must be fulfilled by each member.

**2) Professional capacity of the tenderer** (based on items 4 of the tender form).

The reference period which will be taken into account will be the last three years preceding the submission deadline.

- At least 4 staff currently working for the candidate in fields related to this contract;
- The tenderer has a certificate of quality management, at least ISO 9001.

**3) Technical capacity of tenderer** (based on items 5 and 6 of the tender form). The reference period which will be taken into account will be the last three years preceding the submission deadline.

- The tenderer has worked successfully on at least 1 project with a budget of at least that of this contract in fields related to this contract in the past three years;
- The tenderer has provided services under at least 2 (two) finished contracts (with the value of the activities carried out equal to or greater than EUR 30,000.00 within each such contract) and which have been implemented in EU Member States or EU Neighbouring Countries and which have been focused on improvement of the public transport sector at any moment during the reference period.

This means that the service contract the tenderer refers to could have been started or completed at any time during the indicated period but it does not necessarily have to be started and completed during that period, nor implemented during the entire period. Tenderers are allowed to refer either to service contracts completed within the reference period (although started earlier) or to service contracts not yet completed. In the first case the service contract will be considered in its whole if proper evidence of performance is provided (statement or certificate from the entity which awarded the contract, proof of final payment for services). In case of service contract still ongoing only the portion satisfactorily completed during the reference period although started earlier will be taken into consideration. This portion will have to be supported by documentary evidence (similarly to service contracts completed) also detailing its value. If a tenderer has implemented the service contract in a consortium, the percentage that the tenderer has successfully completed must be clear from the documentary evidence, together with a description of the nature of the services provided if the selection criteria relating to the pertinence of the experience have been used.

Previous experience which would have led to breach of contract and termination by a contracting authority shall not be used as reference. This is also applicable concerning the previous experience of experts required under a fee-based service contract.

An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the contracting authority that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment by those entities to place those resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility - notably that of nationality - and must comply with the selection criteria for which the economic operator relies on them. Furthermore, the data for this third entity for the relevant selection criterion should be included in the tender in a separate document. Proof of the capacity will also have to be provided when requested by the contracting authority. With regard to technical and professional criteria, an economic operator may only rely on the capacities of other entities where the latter will perform the services for which these capacities are required. With regard to economic and financial criteria the entities upon whose capacity the tenderer relies become jointly and severally liable for the performance of the contract.

### **17. Award criteria**

Best price-quality ratio.

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## **TENDERING**

### **18. Deadline for receipt of tenders**

The deadline for receipt of tenders is specified in point 8 of the instruction to tenderers.

### **19. Tender format and details to be provided**

Tenders must be submitted using the standard tender form for simplified procedures, the format and instructions of which must be strictly observed. The tender form is available from the following internet address: <http://ec.europa.eu/europeaid/prag/annexes.do?group=B> , under the zip file called Simplified Tender dossier.

The tender must be accompanied by a declaration on honour on exclusion and selection criteria using the template available from the following Internet address:

<http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A>

Any additional documentation (brochure, letter, etc.) sent with a tender will not be taken into consideration.

### **20. How tenders may be submitted**

Tenders must be submitted in English exclusively to the contracting authority, using the means specified in point 8 of the instructions to tenderers.

Tenders submitted by any other means will not be considered.

By submitting a tender tenderers accept to receive notification of the outcome of the procedure by electronic means.

### **21. Alteration or withdrawal of tenders**

Tenderers may alter or withdraw their tenders by written notification prior to the deadline for submission of tenders. No tender may be altered after this deadline.

Any such notification of alteration or withdrawal shall be prepared and submitted in accordance



with point 9 of the instructions to tenderers. The outer envelope (and the relevant inner envelope if used) must be marked 'Alteration' or 'Withdrawal' as appropriate.

## **22. Operational language**

All written communications for this tender procedure and contract must be in English.

## **23. Legal basis**

Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action and - See Annex A2 of the practical guide.

## **24. Additional information**

Financial data to be provided by the candidate in the standard application form must be expressed in EUR. If applicable, where a candidate refers to amounts originally expressed in a different currency, the conversion to EUR shall be made in accordance with the InforEuro exchange rate of July 2022, which can be found at the following address: <http://ec.europa.eu/budget/graphs/inforeuro.html>.

**B. Draft contract agreement and special conditions with annexes**

# DRAFT CONTRACT

## SERVICE CONTRACT FOR EUROPEAN UNION EXTERNAL ACTIONS

No <Contract number>

FINANCED FROM THE GENERAL BUDGET OF THE UNION

### Chisinau City Hall

83 Stefan cel Mare si Sfânt Blvd., MD-2012 Chisinau, Republic of Moldova

(‘the contracting authority’),

of the one part,

and

<Full official name of the contractor>

[<Legal status/title>]<sup>1</sup>

[<Official registration number>]<sup>2</sup>

<Full official address>

[<VAT number>]<sup>3</sup>,

(‘the contractor’)

of the other part,

have agreed as follows:

**PROJECT *"MOVE IT like Lublin" – a Chisinau public transport sustainable development initiative***

**CONTRACT TITLE *DESIGN OF THE TRAFFIC MONITORING CENTER***

Identification number <Publication reference>

### (1) Subject

1.1 The subject of this contract is <contract title> done [at] [in] <location> with identification number <reference> (‘the services’).

1.2 The contractor shall execute the tasks assigned to him in accordance with the terms of reference annexed to the contract (Annexe II)

### (2) Contract value

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<sup>1</sup> Where the contracting party is an individual.

<sup>2</sup> Where applicable. For individuals, mention their ID card, passport or equivalent document number.

<sup>3</sup> Except where the contracting party is not VAT registered.

#### [Option 1: Fee-based contracts (technical assistance contracts)]

This contract, established in [Euro] [<national currency> only for indirect management], is a fee-based contract. Based on the maximum fees, [lump sum], incidental expenditure and provision made for expenditure verification set out in Annex V, the maximum contract value is [EUR] [<ISO code of national currency> only for indirect management] <amount>.]

#### [Option 2: Global price contracts (studies and other result-based contracts)]

This contract, established in [Euro] [<national currency> only for indirect management], is a global price contract. The contract value is [EUR] [<ISO code of national currency> only for indirect management] <amount>.]

### (3) Order of precedence of contract documents

The following documents shall be deemed to form and be read and construed as part of this contract, in the following order of precedence:

- the contract agreement;
- the special conditions
- the general conditions (Annex I);
- the terms of reference [including clarification before the deadline for submitting tenders and minutes of the information meeting/site visit] (Annex II)
- the organisation and methodology [including clarification from the tenderer provided during tender evaluation] (Annex III);
- [Key experts (Annex IV) For contracts requiring key experts] ;
- Budget [For fee-based contracts only: breakdown] (Annex V);
- Other relevant forms and documents (Annex VI);

#### [For fee-based contracts only:

- Report of factual findings and terms of reference for an expenditure verification ] (Annex VII):

**These above listed documents make up the contract. They shall be deemed to be mutually explanatory. In cases of ambiguity or divergence, they shall prevail in the order in which they appear above. Addenda shall have the order of precedence of the document they are amending.**

### (4) Language of the contract

The language of the contract and of all written communications between the contractor and the contracting authority and/or the project manager shall be English.

### (5) Other specific conditions applying to the contract

The following conditions to the contract shall apply:

#### [For direct management insert the following]

For the purpose of Article 42 of the General Conditions,

- (a) [For DG DEVCO the data controller is the head of legal affairs unit of DG International Cooperation and Development]

[For DG NEAR the data controller is the head of contracts and finance unit R4 of DG Neighbourhood and Enlargement Negotiations]

[For any other DG the data controller is <please add the function of your controller >.]

- (b) the data protection notice is available at  
[http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A. \]](http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A.)

[For indirect management insert the following

For the purpose of Article 42 of the general conditions, for the part of the data transferred by the contracting authority to the European Commission:

- (a) the controller for the processing of personal data carried out within the Commission is

[For DG DEVCO the head of legal affairs unit of DG International Cooperation and Development.]

[For DG NEAR the head of contracts and finance unit R4 of DG Neighbourhood and Enlargement Negotiations]

[For any other DG <please add the function of your controller >.]

- (b) the data protection notice is available at  
[http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A. \]](http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A.)

[If necessary and after having obtained prior approval/derogation by the competent services:

By derogation from Article ... ]

Done in English in [two] [three] originals, [For direct management: [one] [two] originals for the European Commission] [ For indirect management: one original for the contracting authority, one original for the European Commission,] and one original for the contractor.

**For the contractor**

**For the contracting authority**

Name:

Name:

Title:

Title:

Signature:

Signature:

Date:

Date:

[For indirect management:

**Endorsed for financing by the European Union (only for ex-ante control if the European Commission makes payments under the contract)**

Name:

Title:

Signature:

Date:

## SPECIAL CONDITIONS

These conditions amplify and supplement the general conditions governing the contract. Unless the special conditions provide otherwise, the general conditions remain fully applicable. The numbering of the articles of the special conditions is not consecutive but follows the numbering of the general conditions. Exceptionally, and with the approval of the competent European Commission departments, other clauses can be indicated to cover particular situations.

### How to complete these special conditions:

Where you see < ... >, enter the information relevant to the special conditions. The phrases in square brackets [ ] and shaded in grey should only be included if relevant. They should only be amended in exceptional cases, depending on the requirements of specific tender procedures.

Note that the special conditions provide for allowed deviations from the general conditions. The use of further deviations from the general conditions requires an exception to be granted by the relevant services of the European Commission.

Please remember to delete this paragraph and all pointed and square brackets in the final version of the special conditions.

### Article 2 Communications

- 2.1 <Indicate here the contact persons, addresses of the parties, their other contact details, the documents to provide and the procedure to be used by the parties for communication.>
- 2.2 An electronic system will be used by the contracting authority and the contractor for all stages of implementation including, inter alia, management of the contract (amendments and administrative orders), reporting (including reporting on results) and payments. The contractor will be required to register in and use the appropriate electronic exchange system to allow for the e-management of the contract. With regard to interim and final reports, if they are required according to Article 26 or to the terms of reference, the contractor will be expected to use the forms in the electronic system for encoding and submitting the reports.

The electronic management of the contract through the aforementioned system may commence on the date on which implementation of the contract starts, as described in Article 19 below, or at a later date. In the latter case, the contracting authority will inform the contractor in writing that he will be required to use the electronic system for all communications within a maximum period of 3 months.

### Article 4 Subcontracting

- 4.9 [EDF only:  
In the selection of subcontractors and/or other independent contractors, preference shall be given to natural persons, companies and firms of ACP States capable of implementing the tasks required on similar terms.]

### Article 7 General obligations

- 7.8 <Specify the specific activities to be put in place by the contractor to comply with its minimum obligation towards visibility. These activities must comply with the rules lay down in the Communication and Visibility Manual for EU External Actions published by the European Commission.>

### Article 12 - Liabilities

12.2 <Specify here the specific requirements of liability for damages to the contracting authority>

[For contracts of amount below one million EUR: in some cases capping contractors liability to one million EUR may be disproportional compared to the content of this contract. This is especially the case where the financial risk is low, for instance for technical assistance or studies. If you find it necessary to set a cap lower than that referred to in the general conditions, add the following clause:

‘By way of derogation from Article 12.2, paragraph 2, of the general conditions, compensation for damage resulting from the contractor's liability in respect of the contracting authority is capped at an amount equal to <complete with an amount between the contract value and one million EUR>.’]

## Article 19 Implementation of the tasks and delays

19.1 [The start date for implementation shall be <date/date of signature of the contract by both parties>]

OR:

[The date on which implementation starts shall be within 3 months of the signature of this contract by both parties and shall be set in an administrative notice issued by the project manager.]

19.2 The period for implementing the tasks is <number> months from the start date.

## Article 26 Interim and final reports

The contractor shall submit progress reports as specified in the terms of reference.

## Article 27 Approval of reports and documents

27.5 [For contracts in decentralised/indirect management under the general budget of the Union for which a financing agreement has been signed before 01/01/2013 and for 10<sup>th</sup>-11<sup>th</sup> EDF :

The contracting authority shall, within 45 days of receipt, notify the contractor of its decision concerning the documents or reports received by it, giving reasons should it reject the reports or documents, or request amendments. If the contracting authority does not give any comments on the documents or reports within the time limit, the contractor may request written acceptance of them. The documents or reports shall be deemed to have been approved by the contracting authority if it does not expressly inform the contractor of any comments within 45 days of the receipt of the report.]

## Article 28 Expenditure verification

28.2 Fee-based contract

[The expenditure verification(s) referred to in the general conditions will be carried out by <name, address, telephone and fax numbers>.]

[If the verification of the incidental expenditure will be made by the contracting authority insert the following instead of 28.2 above: By derogation from article 28 the verification will be made by the contracting authority and all references to an expenditure verification report will not be applicable.]



## Article 29 Payment and interest on late payment

29.1 Payments will be made in accordance with the following the option:

### [Option 1: Fee-based contract

<b>Month</b>		<b>[EUR] [<b>&lt;ISO code of national currency&gt;</b>]<sup>4]</sup></b>
<b>1</b>	<b>Maximum pre-financing payment<sup>5</sup></b>	<b>&lt;Maximum amount&gt;</b> <b>&lt;X&gt; %<sup>6</sup></b>
<b>6-monthly</b>	<b>Interim payments</b>	<b>&lt;amount (balance of pre-financing payment and forecast balance)&gt;</b>
<b>&lt;Month number&gt;</b>	<b>Forecast balance</b>	10% of the maximum contract value
	<b>Total</b>	<b>&lt;maximum contract value&gt;</b>

The actual amounts payable after the pre-financing payment will vary. They will be based on the contractor's invoice accompanied by an interim progress report and an expenditure verification report and are subject to approval of the reports in accordance with Article 27 of the general conditions.

The interim invoices must be paid such that the sum of the payments does not exceed 90% of the maximum contract value stated in Article 3 of the contract. Payment of the balance of the final value of the contract, subject to the maximum contract value stated in Article (2) of the contract, is made after deduction of the amounts already paid, within 60 days of the contracting authority receiving an invoice accompanied by the final progress report and a final expenditure verification report, the incidental expenditure and expenditure verification actually incurred during the period, subject to approval of those reports.]

<sup>4</sup> Only for indirect management

<sup>5</sup> The contractor is not obliged to ask for pre-financing.

<sup>6</sup> Maximum of 20% of the total contract amount.

[Option 2: Global price contract]

Month		<EUR/***>
1	Maximum pre-financing payment <sup>7</sup>	<Maximum 40% of the contract value>
<Month/year number>	[If applicable: Interim payment ]	<X% of the contract value>
<Month/year number>	Balance	<Maximum 60% of the contract value>
	<b>Total</b>	<Total contract value>

[Contract in decentralised/indirect management under the general budget of the Union only: By derogation, the payments to the contractor of the amounts due under interim and final payments shall be made within 90 days after receipt by the contracting authority of an invoice and of the reports, subject to approval of those reports in accordance with Article 27 of the general conditions.]

[Contract under 10th EDF only: By derogation, the pre-financing payment shall be made within 90 days from the date on which an admissible invoice is registered by the contracting authority. The interim and final payments to the contractor of the amounts due shall be made within 90 days following approval of the reports as indicated in in accordance with Article 27 of the general conditions, after receipt by the contracting authority of an admissible invoice. ]

[contract in indirect management under 11<sup>th</sup> EDF only where the Commission executes payments: By derogation, the pre-financing payment shall be made within 60 days from the date on which an admissible invoice is registered by the contracting authority. The interim and final payments to the contractor of the amounts due shall be made within 90 days from the date on which an admissible invoice is registered by the contracting authority.]

[If the verification of the incidental expenditure will be made by the contracting authority: By derogation from article 29 the verification will be made by the contracting authority and all references to an expenditure verification report will not be applicable.

29.3 [For indirect management

By derogation from Article 29.3 of the general conditions, once the deadline set in Article 29.1 has expired, the contractor will, upon demand, be entitled to late-payment interest at the rate and for the period mentioned in the general conditions submitted The demand must be submitted within two months of receiving late payment.]

<sup>7</sup> The contractor is not obliged to ask for pre-financing.

29.5 Payments will be made in [Euro] [<national currency> only for indirect management] in accordance with Articles 20.6 and 29.4 of the general conditions into the bank account notified by the contractor to the contracting authority.

[Optional: In the case of indirect management with ex ante controls and where invoices are presented to the contracting authority, the contractor must inform the European Commission at <enter address of the unit in charge if this option is used>, thereof by sending a copy of the correspondence.]

### Article 30 Financial guarantee

30.1 For contract of an amount below EUR 60 000 [By derogation from article 30 of the general conditions, no pre-financing guarantee is required.]

For contract of an amount above EUR 60 000 [Subject to a positive risk assessment<sup>8</sup> by the contracting authority, by derogation from article 30 of the general conditions no pre-financing guarantee is required.]

### Article 40 Settlement of disputes

[For direct management:

40.4 Any disputes arising out of or relating to this contract which cannot be settled amicably shall be referred to the exclusive jurisdiction of the courts of Brussels, Belgium.]

[For indirect management:

[General budget of the Union:

[40.4 Any disputes arising out of or relating to this contract which cannot be settled otherwise shall be referred to the exclusive jurisdiction of <specify> applying the national legislation of the contracting authority.]

OR

[40.4 Any disputes arising out of or relating to this contract which cannot be settled otherwise shall be referred for arbitration to <specify the arbitration body> applying the rules of arbitration of [ the International Chamber of Commerce] [the United Nations Commission on International Trade Law] [< other internationally recognised procedure to be specified >] .]]

[EDF:

40.4 Any dispute arising out of or relating to this contract which cannot be settled otherwise shall be settled

(a) if it is a national contract [in accordance with the national legislation of the state of the contracting authority]

(b) if it is a cross-border contract [either:

(i) if the parties to the contract so agree, in accordance with the national legislation of the partner country or its established international practices; or

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<sup>8</sup> Such risk assessment is required, for example, when a company is awarded a contract without itself meeting the selection criteria but relying on the capacity of another company.

- (ii) by arbitration in accordance with the Procedural rules on conciliation and arbitration of contracts financed by the European Development Fund, adopted by Decision 3/90 of the ACP-EEC Council of Ministers of 29 March 1990 (OJ L 382, 31.12.1990) (Annex A12 to the practical guide).] Please attach Annex A12 of the practical guide to the present contract.]

[Optional for contract awarded after negotiated procedure to an international organisation that cannot participate in competitive procedures according to its statute or act of establishment:

#### **Article 40 Settlement of disputes and Article 41 Applicable law**

Articles 40.3, 40.4 and 41.1 of the general conditions shall be replaced by the following:

In default of amicable settlement, the parties may refer the matter to arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of conclusion of this agreement. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either party. The arbitrator's decision shall be binding on all parties and there shall be no appeal.]

#### **Article 42 Data protection**

[The following text is to be inserted for indirect management]

[1. Processing of personal data related to the implementation of the contract by the contracting authority takes place in accordance with the national legislation of the state of the contracting authority and with the provisions of the respective financing agreement.

2. To the extent that the contract covers an action financed by the European Union, the Contracting Authority may share communications related to the implementation of the contract, with the European Commission. These exchanges shall be made to the Commission, solely for the purpose of allowing the latter to exercise its rights and obligations under the applicable legislative framework and under the financing agreement with the Partner country – contracting authority. The exchanges may involve transfers of personal data (such as names, contact details, signatures and CVs) of natural persons involved in the implementation of the contract (such as contractors, staff, experts, trainees, subcontractors, insurers, guarantors, auditors and legal counsel). In cases where the contractor is processing personal data in the context of the implementation of the contract, he/she shall accordingly inform the data subjects of the possible transmission of their data to the Commission. When personal data is transmitted to the Commission, the latter processes them in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC<sup>9</sup> and as detailed in the specific privacy statement published at ePRAG.]

#### **Article 43 Further additional clauses**

<Add other clauses approved by the competent European Commission departments.>

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<sup>9</sup> OJ L 205 of 21.11.2018, p. 39

## ANNEX I:

# GENERAL CONDITIONS FOR SERVICE CONTRACTS FOR EXTERNAL ACTIONS FINANCED BY THE EUROPEAN UNION OR BY THE EUROPEAN DEVELOPMENT FUND

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# **PRELIMINARY PROVISIONS**

## **ARTICLE 1. DEFINITIONS**

- 1.1. The headings and titles in these general conditions shall not be taken as part thereof or be taken into consideration in the interpretation of the contract.
- 1.2. Where the context so permits, words in the singular shall be deemed to include the plural and vice versa, and words in the masculine shall be deemed to include the feminine and vice versa.
- 1.3. The word “country” shall be deemed to include State or Territory.
- 1.4. Words designating persons or parties shall include firms, companies, and any organisation having legal capacity.
- 1.5. The definitions of the terms used throughout these general conditions are laid down in the “Glossary of terms”, Annex A1a to the practical guide, which forms an integral part of the contract.

## **ARTICLE 2. COMMUNICATIONS**

- 2.1. Unless otherwise specified in the special conditions, any written communication relating to this contract between the contracting authority or the project manager, and the contractor shall state the contract title and identification number, and shall be sent by post, facsimile transmission, e-mail or personal delivery to the appropriate addresses designated by the Parties for that purpose in the special conditions.
- 2.2. If the sender requires evidence of receipt, it shall state such requirement in its communication and shall demand such evidence of receipt whenever there is a deadline for the receipt of the communication. In any event, the sender shall take all the necessary measures to ensure timely receipt of its communication.
- 2.3. Wherever the contract provides for the giving or issue of any notice, consent, approval, certificate or decision, unless otherwise specified such notice, consent, approval, certificate or decision shall be in writing and the words “notify”, “consent”, “certify”, “approve” or “decide” shall be construed accordingly. Any such consent, approval, certificate or decision shall not unreasonably be withheld or delayed.
- 2.4. Any oral instructions or orders shall be confirmed in writing.

## **ARTICLE 3. ASSIGNMENT**

- 3.1. An assignment shall be valid only if it is a written agreement by which the contractor transfers its contract or part thereof to a third party.
- 3.2. The contractor shall not, without the prior consent of the contracting authority, assign the contract or any part thereof, or any benefit or interest thereunder, except in the following cases:
  - (a) a charge, in favour of the contractor's bankers, of any monies due or to become due under the contract; or
  - (b) the assignment to the contractor's insurers of the contractor's right to obtain relief against any other person liable in cases where the insurers have discharged the contractor's loss or liability.
- 3.3. For the purpose of Article 3.2, the approval of an assignment by the contracting authority shall not relieve the contractor of its obligations for the part of the contract already performed or the part not assigned.

- 3.4. If the contractor has assigned the contract without authorisation, the contracting authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Articles 34 and 36.
- 3.5. Assignees shall satisfy the eligibility criteria applicable for the award of the contract and they shall not fall under the exclusion criteria described in the tender dossier.

#### **ARTICLE 4. SUBCONTRACTING**

- 4.1. A subcontract shall be valid only if it is a written agreement by which the contractor entrusts performance of a part of the contract to a third party.
- 4.2. The contractor shall request to the contracting authority the authorisation to subcontract. The request must indicate the elements of the contract to be subcontracted and the identity of the subcontractors. The contracting authority shall notify the contractor of its decision, within 30 days of receipt of the request, stating reasons should it withhold such authorisation.
- 4.3. No subcontract creates contractual relations between any subcontractor and the contracting authority.
- 4.4. The contractor shall be responsible for the acts, defaults and negligence of its subcontractors and its experts, agents or employees, as if they were the acts, defaults or negligence of the contractor, its experts, agents or employees. The approval by the contracting authority of the subcontracting of any part of the contract or of the subcontractor to perform any part of the services shall not relieve the contractor of any of its obligations under the contract.
- 4.5. If a subcontractor is found by the contracting authority or the project manager to be incompetent in discharging its duties, the contracting authority or the project manager may request the contractor forthwith, either to provide a subcontractor with qualifications and experience acceptable to the contracting authority as a replacement, or to resume the implementation of the tasks itself.
- 4.6. Subcontractors shall satisfy the eligibility criteria applicable to the award of the contract. They shall not fall under the exclusion criteria described in the tender dossier and the contractor shall ensure that they are not subject to EU restrictive measures.
- 4.7. Those services entrusted to a subcontractor by the contractor shall not be entrusted to third parties by the subcontractor, unless otherwise agreed by the contracting authority.
- 4.8. If the contractor enters into a subcontract without approval, the contracting authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Articles 34 and 36.

### **OBLIGATIONS OF THE CONTRACTING AUTHORITY**

#### **ARTICLE 5. SUPPLY OF INFORMATION**

- 5.1. The contracting authority shall supply the contractor promptly with any information and/or documentation at its disposal, which may be relevant to the performance of the contract. Such documents shall be returned to the contracting authority at the end of the period of implementation of the tasks.
- 5.2. The contracting authority shall co-operate with the contractor to provide information that the latter may reasonably request in order to perform the contract.
- 5.3. The contracting authority shall give notification to the contractor of the name and address of the project manager.

## **ARTICLE 6. ASSISTANCE WITH LOCAL REGULATIONS**

- 6.1. The contractor may request the assistance of the contracting authority in obtaining copies of laws, regulations, and information on local customs, orders or by-laws of the country in which the services are to be performed, which may affect the contractor in the performance of its obligations under the contract. The contracting authority may provide the assistance requested to the contractor at the contractor's cost.
- 6.2. Subject to the provisions of the laws and regulations on foreign labour of the country in which the services have to be rendered, the contracting authority provides reasonable assistance to the contractor, at its request, for its application for any visas and permits required by the law of the country in which the services are rendered, including work and residence permits, for the staff whose services the contractor and the contracting authority consider necessary, as well as residence permits for their families.

## **OBLIGATIONS OF THE CONTRACTOR**

### **ARTICLE 7. GENERAL OBLIGATIONS**

- 7.1. The contractor shall execute the contract with due care, efficiency and diligence in accordance with the best professional practice.
- 7.2. The contractor shall comply with any administrative orders given by the project manager. Where the contractor considers that the requirements of an administrative order go beyond the authority of the project manager or of the scope of the contract he shall give notice, with reasons, to the project manager. If the contractor fails to notify within the 30-day period after receipt thereof, he shall be barred from so doing. Execution of administrative order should not be suspended because of this notice.
- 7.3. The contractor shall supply, without delay, any information and documents to the contracting authority and the European Commission upon request, regarding the conditions in which the contract is being executed.
- 7.4. The contractor shall respect and abide by all laws and regulations in force in the partner country and shall ensure that its staff, their dependents, and its local employees also respect and abide by all such laws and regulations. The contractor shall indemnify the contracting authority against any claims and proceedings arising from any infringement by the contractor, its employees and their dependents of such laws and regulations.

Contractors must ensure that there is no detection of subcontractors, natural persons, including participants to workshops and/or trainings in the lists of EU restrictive measures.

- 7.5. Should any unforeseen event, action or omission directly or indirectly hamper performance of the contract, either partially or totally, the contractor shall immediately and at its own initiative record it and report it to the contracting authority. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the contractor to ensure full compliance with its obligations under the contract. In such event the contractor shall give priority to solving the problem rather than determining liability.
- 7.6. Subject to Article 7.8, the contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to the performance of the contract without the prior consent of the contracting authority. The contractor shall continue to be bound by this undertaking after completion of the tasks and shall obtain from each member of its staff the same undertaking. However, use of the contract's reference for marketing or tendering purposes does not require prior approval of the contracting authority, except where the contracting authority declares the contract to be confidential.
- 7.7. If the contractor is a joint venture or a consortium of two or more persons, all such persons shall be jointly and severally bound in respect of the obligations under the contract,



including any recoverable amount. The person designated by the consortium to act on its behalf for the purposes of the contract shall have the authority to bind the consortium and is the sole interlocutor for all contractual and financial aspects. The composition or the constitution of the joint venture or consortium shall not be altered without the prior consent of the contracting authority. Any alteration of the composition of the consortium without the prior consent of the contracting authority may result in the termination of the contract.

- 7.8. Save where the European Commission requests or agrees otherwise, the contractor shall ensure the highest visibility to the financial contribution of the European Union. To ensure such publicity the contractor shall implement among other actions the specific activities described in the special conditions. All measures must comply with the rules in the Communication and Visibility Manual for EU External Actions published by the European Commission.
- 7.9. Any records shall be kept for a 7-year period after the final payment made under the contract as laid down in Article 24. These documents comprise any documentation concerning income and expenditure and any inventory, necessary for the checking of supporting documents, including timesheets, plane and transport tickets, pay slips or invoices for the remuneration paid to the experts and invoices or receipts for incidental expenditure. In case of failure to maintain such records the contracting authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Articles 34 and 36.

## **ARTICLE 8. CODE OF CONDUCT**

- 8.1. The contractor shall at all-time act impartially and as a faithful adviser in accordance with the code of conduct of its profession as well as with appropriate discretion. It shall refrain from making any public statements concerning the project or the services without the prior approval of the contracting authority. It shall not commit the contracting authority in any way whatsoever without its prior consent, and shall make this obligation clear to third parties.
- 8.2. Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other form of intimidation shall be prohibited. The contractor shall also provide to inform the contracting authority of any breach of ethical standards or code of conduct as set in the present Article. In case the contractor is aware of any violations of the abovementioned standards, he shall report it in writing within 30 days to the contracting authority.
- 8.3. The contractor and its staff shall respect human rights, applicable data protection rules and the environmental legislation applicable in the country where the services have to be rendered and internationally agreed core labour standards, e.g. the ILO core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation, and the abolition of child labour.
- 8.4. The contractor or any of its subcontractors, agents or staff shall not abuse of its entrusted power for private gain. The contractor or any of its subcontractors, agents or staff shall not receive or agree to receive from any person or offer or agree to give to any person or procure for any person, gift, gratuity, commission or consideration of any kind as an inducement or reward for performing or refraining from any act relating to the performance of the contract or for showing favour or disfavour to any person in relation to the contract. The contractor shall comply with all applicable laws, regulations and codes relating to anti-bribery and anti-corruption.
- 8.5. The payments to the contractor under the contract shall constitute the only income or benefit it may derive in connection with the contract. The contractor and its staff must not exercise any activity or receive any advantage inconsistent with their obligations under the contract.

8.6. The execution of the contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the contract or not stemming from a properly concluded contract referring to the contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company. The contracting authority and the European Commission may carry out documentary or on-the-spot checks they deems necessary to find evidence in case of suspected unusual commercial expenses.

8.7. The respect of the code of conduct set out in the present article constitutes a contractual obligation.

Failure to comply with the code of conduct is always deemed to be a breach of the contract under Article 34 of the General Conditions. In addition, failure to comply with the provisions set out in the present Article can be qualified as grave professional misconduct that may lead to either suspension or termination of the contract, without prejudice to the application of administrative sanctions including exclusion from participation in future contract award procedures.

## **ARTICLE 9. CONFLICT OF INTEREST**

9.1. The contractor shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests, which may arise during performance of the contract, shall be notified to the contracting authority without delay. In the event of such conflict, the contractor shall immediately take all necessary steps to resolve it.

9.2. The contracting authority reserves the right to verify that such measures are adequate and may require additional measures to be taken if necessary. The contractor shall ensure that its staff, including its management, is not placed in a situation, which could give rise to conflict of interests. Without prejudice to its obligations under the contract, the contractor shall replace, immediately and without compensation from the contracting authority, any member of its staff exposed to such a situation.

9.3. The contractor shall refrain from any contact which would compromise its independence or that of its staff.

9.4. The contractor shall limit its role in connection with the project to the provision of the services described in the contract.

9.5. The contractor and anyone working under its authority or control in the performance of the contract or on any other activity may be excluded from access to other EU budget/EDF funds available under the same project. However, if the contractor is able to prove that his involvement in previous stages of the project does not constitute unfair competition, he may participate, subject to the prior approval of the contracting authority.

9.6. Civil servants and other staff of the public administration of the country where the services have to be rendered, regardless of their administrative situation, shall not be recruited as experts unless the prior approval has been granted by the European Commission.

## **ARTICLE 10. ADMINISTRATIVE SANCTIONS**

10.1. Without prejudice to the application of other remedies laid down in the contract, a sanction of exclusion from all contracts and grants financed by the EU may be imposed, after an adversarial procedure in line with the applicable Financial Regulation, upon the contractor who, in particular,

a) is guilty of grave professional misconduct, has committed irregularities or has shown significant deficiencies in complying with the main obligations in the performance of the contract

or has been circumventing fiscal, social or any other applicable legal obligations, including through the creation of an entity for this purpose. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, three years;

b) is guilty of fraud, corruption, participation in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, five years.

10.2. In the situations mentioned in Article 10.1, in addition or in alternative to the sanction of exclusion, the contractor may also be subject to financial penalties up to 10% of the total value of the contract.

10.3. Where the contracting authority is entitled to impose financial penalties, it may deduct such financial penalties from any sums due to the contractor or call on the appropriate guarantee.

10.4. The decision to impose administrative sanctions may be published on a dedicated internet-site, explicitly naming the contractor.

## **ARTICLE 11. SPECIFICATIONS AND DESIGNS**

11.1. The contractor shall prepare all specifications and designs using accepted and generally recognised systems acceptable to the contracting authority and taking into account the latest design criteria.

11.2. The contractor shall ensure that the specifications and designs and all documentation relating to procurement of goods and services for the project are prepared on an impartial basis so as to promote competitive tendering.

## **ARTICLE 12. LIABILITIES**

12.1. Liability for damage to services

Without prejudice to Article 30 (financial guarantee) and Article 38 (force majeure), the contractor shall assume (i) full responsibility for maintaining the integrity of services and (ii) the risk of loss and damage, whatever their cause, until the completion of the implementation of the tasks and approval of reports and documents under Articles 26 and 27.

After the completion of the implementation of the tasks, the contractor shall be responsible for and shall indemnify the contracting authority for any damage caused to the services by the contractor, its staff, its subcontractors and any person for which the contractor is answerable, during any operation performed to complete any work left, as the case may be, pending or to comply with its obligations under Articles 26 and 27, particularly if the contract is performed in phases.

Compensation for damage to the services resulting from the contractor's liability in respect of the contracting authority is capped at the contract value.

However, compensation for loss or damage resulting from fraud or gross negligence of the contractor, its staff, its subcontractors and any person for which the contractor is answerable, can in no case be capped.

The contractor shall remain responsible for any breach of its obligations under the contract for such period after the services have been performed as may be determined by the law governing the contract, even after approval of the reports and documents, or by default for a period of 10 years.

12.2. Contractor's liability in respect of the contracting authority

At any time, the contractor shall be responsible for and shall indemnify the contracting authority for any damage caused during the performance of the services, to the contracting authority by the contractor, its staff, its subcontractors and any person for which the contractor is answerable.

Compensation for damage resulting from the contractor's liability in respect of the contracting authority is capped at an amount equal to one million euros if the contract value is less than or equal to one million euros. If the contract value is greater than one million euros, compensation for damages resulting from the contractor's liability shall be capped to the contract value.

However, compensation for loss or damage resulting from the contractor's liability in case of bodily injury, including death, can in no case be capped. The same applies to compensation for any damages of any kind resulting from fraud or gross negligence of the contractor, its staff, its subcontractors and any person for which the contractor is answerable.

#### 12.3. Contractor's liability in respect of third parties

Without prejudice to Article 14.9, the contractor shall, at its own expense, indemnify, protect and defend, the contracting authority, its agents and employees, from and against all actions, claims, losses or damage, direct or indirect, of whatever nature (hereinafter 'claim(s)') arising from any act or omission by the contractor, its staff, its subcontractors and/or any person for which the contractor is answerable, in the performance of the services, including any violation of any legal provisions, or rights of third parties, in respect of patents, trademarks and other forms of intellectual property such as copyrights.

The contracting authority must notify any third party claim to the contractor as soon as possible after the contracting authority becomes aware of them.

If the contracting authority chooses to challenge and defend itself against the claim(s), the contractor shall bear the reasonable costs of defense incurred by the contracting authority, its agents and employees.

Under these general conditions, the agents and employees of the contracting authority, as well as the contractor's staff, its subcontractors and any person for which the contractor is answerable are considered to be third parties.

#### 12.4. The contractor shall treat all claims in close consultation with the contracting authority

#### 12.5. Any settlement or agreement settling a claim requires the prior express written consent of the contracting authority and the contractor.

### **ARTICLE 13. MEDICAL, INSURANCE AND SECURITY ARRANGEMENTS**

#### 13.1. Medical arrangement

The contracting authority may condition the performance of the services to the production, by the contractor, of a recent medical certificate attesting that the contractor itself, its staff, its subcontractors and/or any person for which the contractor is answerable, are fit to implement the services required under this contract.

#### 13.2. Insurance – general issues

- a) At the latest together with the return of the countersigned contract, and for the period of implementation of the tasks, the contractor shall ensure that itself, its staff, its subcontractors and any person for which the contractor is answerable, are adequately insured with insurance companies recognized on the international insurance market, unless the contracting authority has given its express written consent on a specific insurance company.
- b) At the latest together with the return of the countersigned contract, the contractor shall provide the contracting authority with all cover notes and/or certificates of insurance showing that the contractor's obligations relating to insurance are fully respected. The contractor shall submit without delay, whenever the contracting authority or the project manager so requests, an updated version of the cover notes and/or certificates of insurance.

The contractor shall obtain from the insurers that they commit to personally and directly inform the contracting authority of any event likely to reduce, cancel or alter in any manner whatsoever, that coverage. The insurers shall deliver this information as quickly as possible, and in any event at least thirty (30) days before the reduction, cancellation or alteration of the cover is effective. The contracting authority reserves the right to indemnify the insurer in case

the contractor fails to pay the premium, without prejudice to the contracting authority's right to recover the amount of the premium it paid, and to subsequently seek compensation for its possible resulting damage.

- c) Whenever possible, the contractor shall ensure that the subscribed insurance contracts contain a waiver of recourse in favour of the contracting authority, its agents and employees.
- d) The purchase of adequate insurances by the contractor shall in no case exempt it from its statutory and/or contractual liabilities.
- e) The contractor shall fully bear the consequences of a total or partial lack of coverage, and to the full discharge of the contracting authority.
- f) The contractor shall ensure that its staff, its subcontractors and any person for whom the contractor is answerable comply with the same insurance requirements imposed to it under this contract. In case of default of insurance or inadequate insurance of its staff, its subcontractors or any person for which the contractor is answerable, the contractor shall indemnify the contracting authority from all consequences resulting therefrom.
- g) Under its own responsibility and without prejudice to the obligation to take out all insurance covering its obligations under this contract, the contractor shall ensure that all compulsory insurances are subscribed in compliance with the laws and regulations in force in the country in which the services are to be performed. It shall also ensure that all possible statutory obligations applying to the coverage are complied with.
- h) The contracting authority shall not bear any liability for the assessment and adequacy of insurance policies taken out by the contractor with its contractual and/or statutory obligations.
- i) In any event, the contractor shall take out the insurance referred to below.

### 13.3. Insurance – Specific issues

- a) The contractor shall take out all insurance necessary to cover its liability, both with regard to its professional liability and its liability as provided under Article 12.
- b) The contractor shall ensure that itself, its staff, its subcontractors and any person for which the contractor is answerable, are covered by an insurance policy covering, in addition to the possible intervention of any statutory insurance:
  - i. all medical expenses, including hospital expenses;
  - ii. the full cost of repatriation in case of illness, accident, or in the event of death by disease or accident;
  - iii. accidental death or permanent disability resulting from bodily injury incurred in connection with the contract.

In the absence of adequate insurance, the contracting authority may bear such costs to the benefit of the contractor itself, its staff, its subcontractors and any person for which the contractor is answerable. This bearing of the costs by the contracting authority shall be subsidiary and may be claimed against the contractor, its subcontractors and any person who should have taken out this insurance, without prejudice to the compensation of the contracting authority's possibly resulting damage.

- c) The contractor shall take out insurance policies providing coverage of the contractor itself, its staff, its subcontractors and any person for which the contractor is answerable, in case of an accident at work or on the way to work. It shall ensure that its subcontractors do the same. It indemnifies the contracting authority against any claims that its employees or those of its subcontractors could have in this regard. For its permanent expatriate staff, where appropriate,

the contractor shall in addition comply with the laws and regulations applicable in the country of origin.

- d) The contractor shall also insure the personal effects of its employees, experts and their families located in the partner country against loss or damage.

#### 13.4. Security arrangements

The contractor shall put in place security measures for its employees, experts and their families located in the partner country commensurate with the physical danger (possibly) facing them.

The contractor shall also be responsible for monitoring the level of physical risk to which its employees, experts and their families located in the partner country are exposed and for keeping the contracting authority informed of the situation. If the contracting authority or the contractor becomes aware of an imminent threat to the life or health of any of its employees, experts or their families, the contractor must take immediate emergency action to remove the individuals concerned to safety. If the contractor takes such action, he must communicate this immediately to the project manager and this may lead to suspension of the contract in accordance with Article 35.

### **ARTICLE 14. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS**

14.1.A 'result' shall be any outcome of the implementation of the contract and provided as such by the contractor.

14.2. The ownership of all the results or rights thereon as listed in the tender specification and the tender attached to the contract, including copyright and other intellectual or industrial property rights, and all technological solutions and information embodied therein, obtained in performance of the contract, shall be irrevocably and fully vested to the contracting authority from the moment these results or rights are delivered to it and accepted by it. The contracting authority may use them as it sees fit and in particular may store, modify, translate, display, reproduce, publish or communicate by any medium, as well as, assign, transfer them as it sees fit.

14.3. For the avoidance of doubt and where applicable, any such vesting of rights is also deemed to constitute an effective transfer of the rights from the contractor to the contracting authority.

14.4. The above vesting of rights in the contracting authority under this contract covers all territories worldwide and is valid for the whole duration of intellectual or industrial property rights protection, unless stipulated otherwise by the contracting authority and the contractor.

14.5. The contractor shall ensure that delivered results are free of rights or claims from third parties including in relation to pre-existing rights, for any use envisaged by the contracting authority. If the contracting authority so requires, the contractor shall provide exhaustive proof of ownership or rights to use all necessary rights, as well as, of all relevant agreements of the creator(s).

14.6. All reports and data such as maps, diagrams, drawings, specifications, plans, statistics, computations, databases format and data, software and any supporting records or materials acquired, compiled or prepared by the contractor in the performance of the contract, as well as, any outcome of the implementation of the contract, shall be the absolute property of the contracting authority unless otherwise specified. The contractor shall, upon completion of the contract, deliver all such documents and data to the contracting authority. The contractor must not retain copies of such documents and data and must not use them for purposes unrelated to the contract without the prior consent of the contracting authority.

14.7. The contractor shall not publish articles relating to the services or refer to them when carrying out any services for others, or divulge information obtained by the contractor in the course of the contract for purposes other than its performance, without the prior consent of the contracting authority.

- 14.8. By delivering the results, the contractor warrants that the above transfer of rights does not violate any law or infringe any rights of others and that it possesses the relevant rights or powers to execute the transfer. It also warrants that it has paid or has verified payment of all fees including fees to collecting societies, related to the final results.
- 14.9. The contractor shall indemnify and hold the contracting authority harmless for all damages and cost incurred due to any claim brought by any third party including creators and intermediaries for any alleged breach of any intellectual, industrial or other property right based on the contracting authority's use as specified in the contract of patents, licenses, drawings, designs, models, or brand or trade-marks, except where such infringement results from compliance with the design or specification provided by the contracting authority.

## **NATURE OF THE SERVICES**

### **ARTICLE 15. THE SCOPE OF THE SERVICES**

- 15.1. The scope of the services is specified in Annex II and Annex III.
- 15.2. Where the contract is for an advisory function for the benefit of the contracting authority and/or project manager in respect of all the technical aspects of the project, which may arise out of its implementation, the contractor shall not have decision-making responsibility.
- 15.3. Where the contract is for management of the implementation of the project, the contractor shall assume all the duties of management inherent in supervising the implementation of a project, subject to the project manager's authority.
- 15.4. If the contractor is required to prepare a tender dossier, the dossier shall contain all documents necessary for consulting suitable contractors, manufacturers and suppliers, and for preparing tender procedures with a view to carrying out the works or providing the supplies or services covered by an invitation to tender. The contracting authority shall provide the contractor with the information necessary for drawing up the administrative part of the tender dossier.

### **ARTICLE 16. STAFF**

- 16.1. For fee-based contracts, without prejudice to paragraph 4 of this Article, the contractor must inform the contracting authority of all staff which the contractor intends to use for the implementation of the tasks, other than the key experts whose CVs are included in Annex IV. Annex II and/or Annex III shall specify the minimum level of training, qualifications and experience of the staff and, where appropriate, the specialisation required. The contracting authority shall have the right to oppose the contractor's choice of staff.
- 16.2. All those working on the project with the approval of the contracting authority shall commence their duties on the date or within the period laid down in Annex II and/or Annex III, or, failing this, on the date or within the periods notified to the contractor by the contracting authority or the project manager.
- 16.3. Save as otherwise provided in the contract, those working on the contract shall reside close to their normal place of posting. Where part of the services is to be performed outside the partner country, the contractor shall keep the project manager informed of the names and qualifications of staff assigned to that part of the services.
- 16.4. The contractor shall:
- (a) forward to the project manager within 30 days of the signature of the contract by both parties, the timetable proposed for placement of the staff;
  - (b) inform the project manager of the date of arrival and departure of each member of staff;

- (c) submit to the project manager for its approval a timely request for the appointment of any non-key experts.

16.5. The contractor shall provide its staff with all financial and technical means needed to enable them to carry out their tasks described under this contract efficiently.

16.6. No recruitment of an expert by the contractor can create contractual relations between the expert and the contracting authority.

#### **ARTICLE 17. REPLACEMENT OF STAFF**

17.1. The contractor shall not make changes to the agreed staff without the prior approval of the contracting authority. The contractor must on its own initiative propose a replacement in the following cases:

- (a) In the event of death, in the event of illness or in the event of accident of an agreed staff;
- (b) If it becomes necessary to replace an agreed staff for any other reasons beyond the contractor's control (e.g. resignation, etc.).

17.2. In the course of performance, the contracting authority can order an agreed staff to be replaced. This shall be done on the basis of a written and justified request to which the contractor and the agreed staff have had the opportunity to provide observations.

17.3. Where an agreed staff must be replaced, the replacement must possess at least equivalent qualifications and experience, and the remuneration to be paid to the replacement cannot exceed that received by the agreed staff who has been replaced. Where the contractor is unable to provide a replacement with equivalent qualifications and/or experience, the contracting authority may either decide to terminate the contract, if the proper performance of it is jeopardised, or, if it considers that this is not the case, accept the replacement, provided that the fees of the latter are renegotiated to reflect the appropriate remuneration level.

17.4. Additional costs incurred by the replacement of an agreed staff are the responsibility of the contractor. The contracting authority makes no payment for the period when the agreed staff to be replaced is absent. The replacement of any agreed staff, whose name is listed in Annex IV of the contract, must be proposed by the contractor within 15 calendar days from the first day of the agreed staff's absence. If after this period the contractor fails to propose a replacement in accordance with Article 17.3 above, the contracting authority may apply liquidated damages up to 10% of the remaining fees of that expert to be replaced. The contracting authority must approve or reject the proposed replacement within 30 days.

17.5. The partner country may be notified of the identity of the agreed staff proposed to be added or replaced in the contract to obtain its approval. The partner country must not withhold its approval unless it submits duly substantiated and justified objections to the proposed experts in writing to the contracting authority within 15 days of the date of the request for approval.

#### **ARTICLE 18. TRAINEES**

18.1. If required in the terms of reference, the contractor shall provide training for the period of implementation of the tasks for trainees assigned to it by the contracting authority under the terms of the contract.

18.2. Instruction by the contractor of such trainees shall not confer on them the status of employees of the contractor. However, they must comply with the contractor's instructions, and with the provisions of article 8, as if they were employees of the contractor. The contractor may on reasoned request in writing obtain the replacement of any trainee whose work or conduct is unsatisfactory.



18.3. Unless otherwise provided in the contract, allowance for trainees covering notably travel, accommodation and all other expenses incurred by the trainees shall be borne by the contracting authority.

18.4. The contractor shall report at quarterly intervals to the contracting authority on the training assignment. Immediately prior to the end of the period of implementation of the tasks, the contractor shall draw up a report on the result of the training and an assessment of the qualifications obtained by the trainees with a view to their future employment. The form of such reports and the procedure for presenting them shall be as laid down in the terms of reference.

## **PERFORMANCE OF THE CONTRACT**

### **ARTICLE 19. IMPLEMENTATION OF THE TASKS AND DELAYS**

19.1. The special conditions fix the date on which implementation of the tasks is to commence.

19.2. The period of implementation of tasks shall commence on the date fixed in accordance with Article 19.1 and shall be as laid down in the special conditions, without prejudice to extensions of the period which may be granted.

19.3. If the contractor fails to perform the services within the period of implementation of the tasks specified in the contract, the contracting authority shall, without formal notice and without prejudice to its other remedies under the contract, be entitled to liquidated damages for every day which shall elapse between the end of the period of implementation of the tasks specified in the contract and the actual date of completion of these tasks.

19.4. The daily rate for liquidated damages is calculated by dividing the contract value by the number of days of the period of implementation of the tasks, up to a maximum of 15% of the total value of the contract.

19.5. If the contracting authority has become entitled to claim 15% of the contract value, it may, after giving notice to the contractor:

- (a) terminate the contract, and;
- (b) enter into a contract with a third party to complete the services, at the contractor's cost.

### **ARTICLE 20. AMENDMENT TO THE CONTRACT**

20.1. Any amendment to the contract affecting its object or scope, such as amendment to the total contract amount, replacement of an agreed staff the curriculum vitae of which is part of the contract and change of the period of implementation shall be formalised by means of an addendum. Both parties may request an addendum for amendment to the contract according to the following principles:

- (a) An addendum for amendment may be requested only during the period of execution of the contract;
- (b) Any request for an addendum shall be submitted in writing to the other party at least thirty days before the date on which the intended addendum is required to enter into force. In case of special circumstances duly substantiated by the contractor, the contracting authority may accept a different notice period.

The requested party shall notify the requesting party of its decision concerning the request within 30 days from its receipt. There is no automatic amendment without written confirmation by the requested party.

20.2. Additionally, the project manager has the power to issue administrative orders requesting an amendment to the contract not affecting its object or scope, including on request of the contractor, according to the following principles:

- a) The requested contract amendment may take the form of additions, omissions, substitutions, changes in quality, quantity, specified sequence, method or timetable of implementation of the services;
- b) Prior to the issuance of any administrative order, the project manager shall notify the contractor of the nature and the form of the proposed amendment.

The contractor shall then, without delay, submit to the project manager a written proposal containing:

- (i) all measures required to comply with the requested amendment,
- (ii) an updated timetable for implementation of the tasks, and,
- (iii) if necessary, a proposed financial adjustment to the contract, using the contractual fee rates when the tasks are similar. When the tasks are not similar, the contractual fee rates shall be applied when reasonable.

Following receipt of the contractor's proposal, the project manager shall decide as soon as possible whether or not the amendment shall be carried out.

If the project manager decides that the amendment shall be carried out, it shall notify the contractor through an administrative order stating that the contractor shall carry out the amendment at the prices and under the conditions given in the contractor's proposal or as modified by the project manager in agreement with the contractor.

- c) On receipt of the administrative order, the contractor shall carry out the amendments detailed in that administrative order as if such amendments were stated in the contract.
- d) For fee-based contracts, administrative orders that have an impact on the contractual budget are limited to transfers within the fees, or transfers from the fees to the incidental expenditures, within the limits of Article 20.3.
- e) For global price contracts, administrative orders cannot have an impact on the contractual budget.

20.3. No amendment either by means of addendum or through administrative order shall lead to decreasing the amount within the contractual budget allocated to expenditure verification, or change the award conditions prevailing at the time the contract was awarded.

20.4. Any amendment carried out by the contractor without an administrative order or without an addendum to the contract is not allowed and made at the contractor's own financial risk.

20.5. Where an amendment is required by a default or breach of contract by the contractor, any additional cost attributable to such amendment shall be borne by the contractor.

20.6. The contractor shall notify the contracting authority of any change of address and bank account using the form in Annex VI to notify any change in its bank account. The contracting authority shall have the right to oppose the contractor's change of bank account. The contractor shall notify the contracting authority of any change of auditor, which the contracting authority needs to approve.

## **ARTICLE 21. WORKING HOURS**

21.1. The days and hours of work of the contractor or the contractor's staff shall respect the laws, regulations and customs of the country where the services have to be rendered and the requirements of the services.

## **ARTICLE 22. LEAVE ENTITLEMENT**

- 22.1. For fee-based contracts, the annual leave to be taken during the period of implementation of the tasks shall be at a time approved by the project manager.
- 22.2. For fee-based contracts, the fee rates are deemed to take into account the annual leave of up to 2 months for the contractor's staff during the period of implementation of the tasks. Consequently, days taken as annual leave shall not be considered to be working days.
- 22.3. The contractor shall only be paid for the days actually worked. Any cost related to sick or casual leave shall be covered by the contractor. The contractor shall inform the project manager of any impact of such leave on the period of implementation of the tasks.

## **ARTICLE 23. INFORMATION**

- 23.1. The contractor shall provide any information relating to the services and the project to the project manager, the European Commission, the European Court of Auditors or any person authorised by the contracting authority.
- 23.2. The contractor shall allow the project manager or any person authorised by the contracting authority or the contracting authority itself to inspect or audit the records and accounts relating to the services and to make copies thereof both during and after provision of the services.

## **ARTICLE 24. RECORDS**

- 24.1. The contractor shall keep full accurate and systematic records and accounts in respect of the services in such form and detail as is sufficient to establish accurately that the number of working days and the actual incidental expenditure identified in the contractor's invoice(s) have been duly incurred for the performance of the services.
- 24.2. For fee-based contracts, timesheets recording the days or hours worked by the contractor's staff shall be maintained by the contractor. The timesheets filled in by the experts shall be confirmed on a monthly basis by the contractor and shall be approved by the project manager or any person authorised by the contracting authority or the contracting authority itself. The amounts invoiced by the contractor must correspond to these timesheets. Time spent travelling exclusively and necessarily for the purpose of the implementation of the contract, by the most direct route, may be included in the numbers of days or hours, as appropriate, recorded in these timesheets. Travel undertaken by the expert for mobilisation and demobilisation as well as for leave purposes shall not be considered as working days. A minimum of 7 hours worked are deemed to be equivalent to one day worked. For all experts, their time input shall be rounded to the nearest whole number of days worked for the purposes of invoicing.
- 24.3. Any records must be kept for a seven year period after the final payment made under the contract. These documents comprise any documentation concerning income and expenditure and any inventory, necessary for the checking of supporting documents, including timesheets, plane and transport tickets, pay slips for the remuneration paid to the experts and invoices or receipts for incidental expenditure. In case of failure to maintain such records the contracting authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Articles 34 and 36.

## **ARTICLE 25. VERIFICATIONS, CHECKS AND AUDITS BY EUROPEAN UNION BODIES**

- 25.1. The contractor shall allow the European Commission, the European Anti-Fraud Office and the European Court of Auditors to verify, by examining the documents and to make copies thereof or by means of on-the-spot checks, including checks of documents (original or copies), the implementation of the contract. In order to carry out these verifications and audits, European Union bodies mentioned above shall be allowed to conduct a full audit, if necessary, on the basis of supporting documents for the accounts,

accounting documents and any other document relevant to the financing of the contract. The contractor shall ensure that on-the-spot accesses is available at all reasonable times, notably at the contractor's offices, to its computer data, to its accounting data and to all the information needed to carry out the audits, including information on individual salaries of persons involved in the contract. The contractor shall ensure that the information is readily available at the moment of the audit and, if so requested, that data be handed over in an appropriate form. These inspections may take place up to seven years after the final payment.

25.2. Furthermore, the contractor shall allow the European Anti-Fraud Office to carry out checks and verification on the spot in accordance with the procedures set out in the European Union legislation for the protection of the financial interests of the European Union against fraud and other irregularities.

25.3. To this end, the contractor undertakes to give appropriate access to staff or agents of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors to the sites and locations at which the contract is carried out, including its information systems, as well as all documents and databases concerning the technical and financial management of the project and to take all steps to facilitate their work. Access given to agents of the European Commission, European Anti-Fraud Office and the European Court of Auditors shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject. Documents shall be easily accessible and filed so as to facilitate their examination. The contractor shall inform the contracting authority of their precise location.

25.4. The contractor guarantees that the rights of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors to carry out audits, checks and verification shall be equally applicable, under the same conditions and according to the same rules as those set out in this Article, to any subcontractor or any other party benefiting from EU budget/EDF funds.

25.5. Failure to comply with the obligations set forth in Article 25.1 to 25.4 constitutes a case of serious breach of contract.

## **ARTICLE 26. INTERIM AND FINAL REPORTS**

26.1. Unless otherwise provided in the terms of reference, the contractor shall draw up interim reports and a final report during the period of implementation of the tasks. These reports shall consist of a narrative section and a financial section. The format of such reports is as notified to the contractor by the project manager during the period of implementation of the tasks.

26.2. All invoices must be accompanied by an interim or final report. All invoices for fee-based contracts must also be accompanied by an up to date financial report and an invoice for the actual costs of the expenditure verification. The structure of the interim or final financial report shall be the same as that of the contractually approved budget (Annex V). This financial report shall indicate, at a minimum, the expenditure of the reporting period, the cumulative expenditure and the balance available.

26.3. Immediately prior to the end of the period of implementation of the tasks, the contractor shall draw up a final progress report together which must include, if appropriate, a critical study of any major problems which may have arisen during the performance of the contract.

26.4. This final progress report shall be forwarded to the project manager not later than 60 days after the end of the period of implementation of the tasks. Such report shall not bind the contracting authority.

26.5. Where the contract is performed in phases, the implementation of each phase shall give rise to the preparation of a final progress report by the contractor.

26.6. Interim and final progress reports are covered by the provisions of Article 14.

## **ARTICLE 27. APPROVAL OF REPORTS AND DOCUMENTS**

- 27.1. The approval by the contracting authority of reports and documents drawn up and forwarded by the contractor shall certify that they comply with the terms of the contract.
- 27.2. Where a report or document is approved by the contracting authority subject to amendments to be made by the contractor, the contracting authority shall prescribe a period for making the amendments requested.
- 27.3. Where the final progress report is not approved, the dispute settlement procedure is automatically invoked.
- 27.4. Where the contract is performed in phases, the implementation of each phase shall be subject to the approval, by the contracting authority, of the preceding phase except where the phases are carried out concurrently.
- 27.5. The contracting authority's time limit for accepting reports or documents shall be considered included in the time limit for payments indicated in Article 29, unless otherwise specified in the special conditions.

## **PAYMENTS & DEBT RECOVERY**

### **ARTICLE 28. EXPENDITURE VERIFICATION**

- 28.1. No expenditure verification report is required for global price contracts.
- 28.2. Before payments are made for fee-based contracts, an external auditor must examine and verify the invoices and the financial reports sent by the contractor to the contracting authority. The auditor shall meet the requirements set out in the terms of reference for expenditure verification and shall be approved by the contracting authority.
- 28.3. The auditor must satisfy itself that relevant, reliable and sufficient evidence exists that:
- (a) the experts employed by the contractor for the contract have been working as evidenced on the contract (as corroborated by independent, third-party evidence, where available) for the number of days claimed in the contractor's invoices and in the financial reporting spreadsheet submitted with the interim progress reports; and
  - (b) the amounts claimed as incidental expenditure have actually and necessarily been incurred by the contractor in accordance with the requirements of the terms of reference of the contract.

On the basis of its verification, the auditor submits to the contractor an expenditure verification report in accordance with the model in Annex VII.

- 28.4. The contractor grants the auditor all access rights mentioned in Article 25.
- 28.5. The contracting authority reserves the right to require that the auditor be replaced if considerations, which were unknown when the contract was signed, cast doubt on the auditor's independence or professional standards.

### **ARTICLE 29. PAYMENT AND INTEREST ON LATE PAYMENT**

- 29.1. Payments will be made in accordance with one of the options below, as identified in the special conditions.

#### Option 1: Fee-based contract:

The contracting authority will make payments to the contractor in the following manner:

1. A first payment of pre-financing, if requested by the contractor, of an amount up to maximum 20% of the maximum contract value stated in point 2 of the contract, within 30 days of receipt by the contracting authority of an invoice, of the contract

signed by both parties, and of a financial guarantee if requested, as defined in Article 30.

2. Six-monthly further interim payments, as indicated in the special conditions, within 60 days of the contracting authority receiving an invoice accompanied by an interim progress report and an expenditure verification report, subject to approval of those reports in accordance with Article 27. Such interim payments shall be of an amount equivalent to the costs incurred on the basis of the expenditure verification reports. When 80 % of the maximum contract value stated in point 2 of the contract has been paid (pre-financing and interim payments) the amounts due to the contractor shall be deducted from the pre-financing payment until it is completely reimbursed before any additional payment is made.
3. The invoices must be paid such that the sum of payments does not exceed 90% of the maximum contract value stated in point 2 of the contract; the 10% being the minimum final payment.
4. The balance of the final value of the contract after verification, subject to the maximum contract value stated in point 2 of the contract, after deduction of the amounts already paid, within 90 days of the contracting authority receiving a final invoice accompanied by the final progress report and a final expenditure verification report, subject to approval of those reports in accordance with Article 27.

Option 2: Global price contract:

If the contract is not divided between different outputs that the contracting authority can approve independently, or has a duration of less than two years, the contracting authority will make payments to the contractor in the following manner:

1. a pre-financing payment if requested by the contractor, of an amount up to 40% of the contract value stated in point 2 of the contract within 30 days of receipt by the contracting authority of an invoice, of the contract signed by both parties, and of a financial guarantee if requested, as defined in Article 30;
2. the balance of the contract value stated in point 2 of the contract within 90 days of the contracting authority receiving a final invoice accompanied by the final progress report, subject to approval of that report in accordance with Article 27.

If the contract has a duration of at least two years and if the budget is divided between different outputs that the contracting authority can approve independently, the contracting authority will make payments to the contractor in the following manner:

1. a pre-financing payment if requested by the contractor, of an amount up to 40% of the contract value stated in point 2 of the contract within 30 days of receipt by the contracting authority of an invoice, of the contract signed by both parties, and of a financial guarantee if requested, as defined in Article 30;
2. one interim payment at the end of each 12 months of implementation of the contract, of an amount corresponding to the outputs delivered, within 60 days of the contracting authority receiving an invoice accompanied by an interim progress report, subject to approval of this report in accordance with Article 27;
3. The invoices must be paid such that the sum of payments does not exceed 90% of the maximum contract value stated in point 2 of the contract; the 10% being the minimum final payment.
4. the balance of the contract value stated in point 2 of the contract within 90 days of the contracting authority receiving a final invoice accompanied by the final progress report, subject to approval of that report in accordance with Article 27.

29.2. The date of payment shall be the date on which the paying account is debited. The invoice shall not be admissible if one or more essential requirements are not met. Without

prejudice to Article 36.2, the contracting authority may halt the countdown towards this deadline for any part of the invoiced amount disputed by the project manager by notifying the contractor that part of the invoice is inadmissible, either because the amount in question is not due or because the relevant report cannot be approved and the contracting authority thinks it necessary to conduct further checks. In such cases, the contracting authority shall not unreasonably withhold any undisputed part of the invoiced amount but may request clarification, alteration or additional information, which shall be produced within 30 days of the request. The countdown towards the deadline shall resume on the date on which a correctly formulated invoice is received by the contracting authority. If part of the invoice is disputed, the undisputed amount of the invoice shall not be withheld and must be paid according to the payment schedule set in Article 29.1.

29.3. Once the deadline referred to above has expired, the contractor - unless it is a government department or public body in an EU Member State - shall, within two months of receiving late payment, receive default interest:

- at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, where payments are in euro,
- at the rediscount rate applied by the central bank of the country of the contracting authority if payments are in the currency of that country,

on the first day of the month in which the time-limit expired, plus eight percentage points. The interest be payable for the time elapses between the expiry of the payment deadline (exclusive) and the date on which the contracting authority's account is debited (inclusive).

By way of exception, when the interest calculated in accordance with the first subparagraph is lower than or equal to EUR 200, it shall be paid to the creditor only upon a demand submitted within two months of receiving late payment.

29.4. Payments due by the contracting authority shall be made into the bank account mentioned on the financial identification form completed by the contractor. A new financial identification form must be used to report any change of bank account and must be attached to the invoice.

29.5. Payments shall be made in euro or in the national currency as specified in the special conditions. The special conditions shall lay down the administrative or technical conditions governing payments of pre-financing, interim and/or final payments made in accordance with the general conditions. Where payment is in Euro, for the purposes of the provision for incidental expenditure, actual expenditure shall be converted into Euro at the rate published on the Infor-Euro on the first working day of the month in which the invoice is dated. Where payment is in the national currency, it shall be converted into the national currency at the rate published on the Infor-Euro on the first working day of the month in which the payment is made.

29.6. For fee-based contracts, invoices shall be accompanied by copies of, or extracts from, the corresponding approved timesheets referred to in Article 24.2 to verify the amount invoiced for the time input of the experts. A minimum of 7 hours worked are deemed to be equivalent to one day worked. For all experts, their time input must be rounded to the nearest whole number of days worked for the purposes of invoicing.

29.7. Payment of the final balance shall be subject to performance by the contractor of all its obligations relating to the implementation of all phases or parts of the services and to the approval by the contracting authority of the final phase or part of the services. Final payment shall be made only after the final progress report and a final statement, identified as such, shall have been submitted by the contractor and approved as satisfactory by the contracting authority.

- 29.8. The payment obligations of the European Commission under the contract shall cease at most 18 months after the end of the period of implementation of the tasks, unless the contract is terminated in accordance with these general conditions.
- 29.9. Prior to, or instead of, terminating the contract as provided for in Article 36, the contracting authority may suspend payments as a precautionary measure without prior notice. A payment may be suspended for the duration of an audit or an OLAF investigation.
- 29.10. Where the award procedure or the performance of the contract proves to have been subject to breach of obligations, irregularities or fraud attributable to the contractor, the contracting authority may in addition to the possibility to suspend the performance of the contract in accordance with Article 35.2 and terminate the contract as provided for in Article 36, suspend payments and/or recover amounts already paid, in proportion to the seriousness of the breach of obligations, irregularities or fraud. In addition to measures referred above, the contracting authority may reduce the contract value in proportion to the seriousness of the irregularities, fraud or of the breach of obligations, including where the activities concerned were not implemented or were implemented poorly, partially or late.
- 29.11. If the contract is terminated for any reason whatsoever, the guarantee securing the pre-financing may be invoked forthwith in order to repay the balance of the pre-financing still owed by the contractor, and the guarantor shall not delay payment or raise objection for any reason whatever.

#### **ARTICLE 30. FINANCIAL GUARANTEE**

- 30.1. Unless otherwise provided for in the special conditions, the contractor shall provide a financial guarantee for the full amount of the pre-financing payment. The financial guarantee shall be in the format provided for in the contract and may be provided in the form of a bank guarantee, a banker's draft, a certified cheque, a bond provided by an insurance and/or bonding company, an irrevocable letter of credit or a cash deposit made with the contracting authority. If the financial guarantee is to be provided in the form of a bank guarantee, a banker's draft, a certified cheque or a bond, it shall be issued by a bank or bonding and/or insurance company approved by the contracting authority. This financial guarantee shall remain valid until it is released by the contracting authority in accordance with Article 30.5 or Article 30.6, as appropriate. Where the contractor is a public body the obligation for a financial guarantee may be waived depending on a risk assessment made.
- 30.2. The financial guarantee shall be provided on the letterhead of the financial institution using the template provided in Annex VI.
- 30.3. During the execution of the contract, if the natural or legal person providing the guarantee (i) is not able or willing to abide by its commitments, (ii) is not authorised to issue guarantees to contracting authorities, or (iii) appears not to be financially reliable, or the financial guarantee ceases to be valid, and the contractor fails to replace it, either a deduction equal to the amount of the pre-financing may be made by the contracting authority from future payments due to the contractor under the contract, or the contracting authority shall give formal notice to the contractor to provide a new guarantee on the same terms as the previous one. Should the contractor fail to provide a new guarantee, the contracting authority may terminate the contract.
- 30.4. If the contract is terminated for any reason whatsoever, the financial guarantee may be invoked forthwith in order to repay any balance still owed to the contracting authority by the contractor, and the guarantor shall not delay payment or raise objection for any reason whatsoever.
- 30.5. For fee-based contracts, the financial guarantee shall be released when the pre-financing is reimbursed in accordance with Article 29.1.
- 30.6. For global price contracts, (i) if the contract is not divided between different outputs that the contracting authority can approve independently, or has a duration of less than two years,



the financial guarantee shall remain in force until the final payment has been made, and (ii) if the contract has a duration of at least two years and if the budget is divided between different outputs that the contracting authority can approve independently, the financial guarantee shall be released when the pre-financing is reimbursed in accordance with Article 29.1.

### **ARTICLE 31. RECOVERY OF DEBTS FROM THE CONTRACTOR**

31.1. The contractor undertakes to repay any amounts paid in excess of the final amount due to the contracting authority before the deadline indicated in the debit note which is 45 days from the issuing of that note.

31.2. Should the contractor fail to make repayment within the above deadline; the contracting authority may (unless the contractor is a government department or public body of an EU Member State) increase the amounts due by adding interest:

- (a) at the rediscount rate applied by the central bank of the country of the contracting authority if payments are in the currency of that country,
- (b) at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, where payments are in euro,

on the first day of the month in which the time-limit expired, plus eight percentage points. The default interest shall be incurred over the time which elapses between the date of the payment deadline, and the date on which the payment is actually made. Any partial payments shall first cover the interest thus established.

31.3. Amounts to be repaid to the contracting authority may be offset against amounts of any kind due to the contractor. This shall not affect the party's right to agree on payment in installments.

31.4. Bank charges arising from the repayment of amounts due to the contracting authority shall be borne entirely by the contractor.

31.5. Without prejudice to the prerogative of the contracting authority, if necessary, the European Union may as a donor proceed itself to the recovery by any means.

### **ARTICLE 32. REVISION OF PRICES**

32.1. The contract shall be at fixed prices, which shall not be revised.

### **ARTICLE 33. PAYMENT TO THIRD PARTIES**

33.1. Orders for payments to third parties may be carried out only after an assignment made in accordance with Article 3. The assignment shall be notified to the contracting authority.

33.2. Notification of beneficiaries of the assignment shall be the sole responsibility of the contractor.

33.3. In the event of a legally binding attachment of the property of the contractor affecting payments due to it under the contract and without prejudice to the time limit laid down in Article 29, the contracting authority shall have 30 days, starting from the day when it receives notification of the definitive lifting of the obstacle to payment, to resume payments to the contractor.

## **BREACH OF CONTRACT, SUSPENSION AND TERMINATION**

## **ARTICLE 34. BREACH OF CONTRACT**

34.1. Either party commits a breach of contract where it fails to perform its obligations in accordance with the provisions of the contract.

34.2. Where a breach of contract occurs, the party injured by the breach is entitled to the following remedies:

- a) damages; and/or
- b) termination of the contract.

34.3. Damages may be either:

- a) general damages; or
- b) liquidated damages.

34.4. Should the contractor fail to perform any of its obligations in accordance with the provisions of the contract, the contracting authority is without prejudice to its right under article 34.2, also entitled to the following remedies;

- a) suspension of payments; and/or
- b) reduction or recovery of payments in proportion to the failure's extent.

34.5. Where the contracting authority is entitled to damages, it may deduct such damages from any sums due to the contractor or call on the appropriate guarantee.

34.6. The contracting authority shall be entitled to compensation for any damage which comes to light after the contract is completed in accordance with the law governing the contract.

## **ARTICLE 35. SUSPENSION OF THE CONTRACT**

35.1. The contractor shall, on the order of the contracting authority, suspend the execution of the contract or any part thereof for such time or times and in such manner as the contracting authority may consider necessary. The suspension shall take effect on the day the contractor receives the order or at a later date when the order so provides.

35.2. Suspension of the contract in the event of presumed breach of obligations or irregularities or fraud: The contract may be suspended in order to verify whether presumed breach of obligations or irregularities or fraud occurred during the award procedure or the performance of the contract. If these are not confirmed, performance of the contract shall resume as soon as possible.

35.3. During the period of suspension, the contractor shall take such protective measures as may be necessary.

35.4. Additional expenses incurred in connection with such protective measures may be added to the contract price, unless:

- a) otherwise provided for in the contract; or
- b) such suspension is necessary by reason of some breach or default of the contractor; or
- c) the presumed breach of obligations or irregularities or fraud mentioned in article 35.2 are confirmed and attributable to the contractor.

35.5. The contractor shall only be entitled to such additions to the contract price if it notifies the project manager, within 30 days after receipt of the order to suspend execution of the contract, of its intention to claim them.

35.6. The contracting authority, after consulting the contractor, shall determine such additions to the contract price and/or extension of the period of performance to be granted to the contractor in respect of such claim as shall, in the opinion of the contracting authority be fair and reasonable.

35.7. The contracting authority shall, as soon as possible, order the contractor to resume the contract suspended or inform the contractor that it terminates the contract. If the period

of suspension exceeds 90 days and the suspension is not due to the contractor's breach or default, the contractor may, by notice to the contracting authority, request to proceed with the contract within 30 days, or terminate the contract.

#### **ARTICLE 36. TERMINATION BY THE CONTRACTING AUTHORITY**

36.1. The contracting authority may, at any time and with immediate effect, subject to Article 36.8, terminate the contract, except as provided for under Article 36.2.

36.2. Subject to any other provision of these general conditions the contracting authority may, by giving seven days' notice to the contractor, terminate the contract in any of the following cases where:

- (a) the contractor is in serious breach of contract for failure to perform its contractual obligations;
- (b) the contractor fails to comply within a reasonable time with the notice given by the project manager requiring it to make good the neglect or failure to perform its obligations under the contract which seriously affects the proper and timely performance of the services;
- (c) the contractor refuses or neglects to carry out any administrative orders given by the project manager;
- (d) the contractor assigns the contract or subcontracts without the authorisation of the contracting authority;
- (e) the contractor is bankrupt, subject to insolvency or winding up procedures, is having its assets administered by a liquidator or by the courts, has entered into an arrangement with creditors, has suspended business activities, or is in any analogous situation arising from a similar procedure provided for under any national law or regulations relevant to that contractor;
- (f) any organisational modification occurs involving a change in the legal personality, nature or control of the contractor, unless such modification is recorded in an addendum to the contract;
- (g) any other legal disability hindering performance of the contract occurs;
- (h) the contractor fails to provide the required guarantees or insurance, or the person providing the earlier guarantee or insurance is not able to abide by its commitments;
- (i) the contractor has been guilty of grave professional misconduct or has committed an irregularity proven by any means which the contracting authority can justify, within the meaning of Article 10.1(a) (b);
- (j) it has been established by a final judgment or a final administrative decision or by proof in possession of the contracting authority that the contractor has been guilty of fraud, corruption, involvement in a criminal organisation, money laundering or terrorist financing, terrorist related offences, child labour or other forms of trafficking in human beings, circumventing fiscal, social or any other applicable legal obligations, including through the creation of an entity for this purpose.
- (k) the contractor, in the performance of another contract financed by the EU budget/EDF funds, has been declared to be in serious breach of contract, which has led to its early termination or the application of liquidated damages or other contractual penalties or which has been discovered following checks, audits or investigations by the European Commission, the contracting authority, OLAF or the Court of Auditors;
- (l) after the award of the contract, the award procedure or the performance of the contract proves to have been subject to breach of obligations, irregularities or fraud;
- (m) the award procedure or the performance of another contract financed by the EU budget/EDF funds proves to have been subject to breach of obligations, irregularities or fraud which are likely to affect the performance of the present contract;
- (n) the contractor fails to perform its obligation in accordance with Article 8 and Article 9;
- (o) the contractor is unable to provide a suitable replacement to an expert, the absence of which affects the proper performance of the contract.

- (p) the contractor is in breach of the data protection obligations resulting from Article 42 of these general conditions.

The cases of termination under points (e), (i), (j), (l), (m) and (n) may refer also to persons who are members of the administrative, management or supervisory body of the contractor and/or to persons having powers of representation, decision or control with regard to the contractor.

The cases of termination under points (a), (e), (f), (g), (i), (j), (k), (l), (m) and (n) may refer also to persons jointly and severally liable for the performance of the contract.

The cases under points (e), (i), (j), (k), (l), (m), (n) and (p) may refer also to subcontractors.

36.3. Termination shall be without prejudice to any other rights or powers under the contract of the contracting authority and the contractor. The contracting authority may, thereafter, complete the services itself, or conclude any other contract with a third party, at the contractor's own expense. The contractor's liability for delay in completion shall immediately cease when the contracting authority terminates the contract without prejudice to any liability thereunder that may already have arisen.

36.4. Upon termination of the contract or when it has received notice thereof, the contractor shall take immediate steps to bring the services to a close in a prompt and orderly manner and to reduce expenditure to a minimum.

36.5. The project manager shall, as soon as possible after termination, certify the value of the services and all sums due to the contractor as at the date of termination.

36.6. The contracting authority shall not be obliged to make any further payments to the contractor until the services are completed. After the services are completed, the contracting authority shall recover from the contractor the extra costs, if any, of completing the services, or shall pay any balance still due to the contractor.

36.7. If the contracting authority terminates the contract pursuant to Article 36.2, it shall, in addition to the extra costs for completion of the contract and without prejudice to its other remedies under the contract, be entitled to recover from the contractor any loss it has suffered up to the value of the services which have not been satisfactorily completed unless otherwise provided for in the special conditions.

36.8. Where the termination is not due to an act or omission of the contractor, force majeure or other circumstances beyond the control of the contracting authority, the contractor shall be entitled to claim in addition to sums owed to it for work already performed, an indemnity for loss suffered.

36.9. This contract shall be automatically terminated if it has not given rise to any payment in the two years following its signing by both parties.

## **ARTICLE 37. TERMINATION BY THE CONTRACTOR**

37.1. The contractor may, after giving 14 days' notice to the contracting authority, terminate the contract if the contracting authority:

- a) fails for more than 120 days to pay the contractor the amounts due after the expiry of the time limit stated in Article 29; or
- b) consistently fails to meet its obligations after repeated reminders; or
- c) suspends the progress of the services or any part thereof for more than 90 days for reasons not specified in the contract, or not attributable to the contractor's breach or default.

37.2. Such termination shall be without prejudice to any other rights of the contracting authority or the contractor acquired under the contract.

37.3. In the event of such termination, the contracting authority shall pay the contractor for any loss or damage the contractor may have suffered. Such additional payment must not be such that the total payments exceed the amount specified in Article 2 of the contract.

## **ARTICLE 38. FORCE MAJEURE**

- 38.1. Neither party shall be considered to be in default or in breach of its obligations under the contract if the performance of such obligations is prevented by any circumstances of *force majeure*, which arise after the date of notification of award or the date when the contract becomes effective.
- 38.2. The term *force majeure*, as used herein covers any unforeseeable events, not within the control of either party and which by the exercise of due diligence neither party is able to overcome such as acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions, ... A decision of the European Union to suspend the cooperation with the partner country is considered to be a case of force majeure when it implies suspension of funding the contract.
- 38.3. Notwithstanding the provisions of Article 19 and Article 36, the contractor shall not be liable for liquidated damages or termination for breach or default if, and to the extent that, its delay in performance or other failure to perform its obligations under the contract is the result of an event of *force majeure*. The contracting authority shall similarly not be liable, notwithstanding the provisions of Article 29 and Article 37, for payment of interest on delayed payments, for non-performance or for termination by the contractor for breach or default, if, and to the extent that, the contracting authority's delay or other failure to perform its obligations is the result of *force majeure*.
- 38.4. If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations it shall promptly notify the other party and the project manager giving details of the nature, the probable duration and the likely effect of the circumstances. Unless otherwise directed by the project manager in writing, the contractor shall continue to perform its obligations under the contract as far as is reasonably practicable, and shall seek all reasonable alternative means for performance of its obligations, which are not prevented by the force majeure event. The contractor shall not put into effect such alternative means unless directed so to do by the project manager.
- 38.5. For a fee-based contract, if the contractor incurs additional costs in complying with the project manager's directions or using alternative means under Article 38.4 the amount thereof shall be certified by the project manager.
- 38.6. If circumstances of *force majeure* have occurred and continue for a period of 180 days then, notwithstanding any extension of time for completion of the contract that the contractor may by reason thereof have been granted, either party shall be entitled to serve upon the other 30 days' notice to terminate the contract. If at the expiry of the period of 30 days the situation of *force majeure* persists, the contract shall be terminated and, in consequence, thereof under the law governing the contract, the parties shall be released from further performance of the contract.

## **ARTICLE 39. DECEASE**

- 39.1. If the contractor is a natural person, the contract shall be automatically terminated if that person dies. However, the contracting authority shall examine any proposal made by its heirs or beneficiaries if they have notified their wish to continue the contract.
- 39.2. Where the contractor consists of a number of natural persons and one or more of them die, a report shall be agreed between the parties on the progress of the contract and the contracting authority shall decide whether to terminate or continue the contract in accordance with the undertaking given by the survivors and by the heirs or beneficiaries, as the case may be.
- 39.3. In the cases provided for in Articles 39.1 and 39.2, persons offering to continue to implement the contract shall notify the contracting authority thereof within 15 days of the

date of decease. The decision of the contracting authority shall be notified to those concerned within 30 days of receipt of such a proposal

39.4. Such persons shall be jointly and severally liable for the proper implementation of the contract to the same extent as the deceased contractor. Continuation of the contract shall be subject to the rules relating to establishment of any guarantee provided for in the contract.

## **SETTLEMENT OF DISPUTES AND APPLICABLE LAW**

### **ARTICLE 40. SETTLEMENT OF DISPUTES**

40.1. The parties shall make every effort to settle amicably any dispute relating to the contract, which may arise between them.

40.2. Once a dispute has arisen, a party shall notify the other party of the dispute, stating its position on the dispute and any solution, which it envisages, and requesting an amicable settlement. The other party shall respond to this request for amicable settlement within 30 days, stating its position on the dispute. Unless the parties agree otherwise, the maximum time period laid down for reaching an amicable settlement shall be 120 days from the date of the notification requesting such a procedure. Should a party not agree to the other party's request for amicable settlement, should a party not respond in time to that request or should no amicable settlement be reached within the maximum time period, the amicable settlement procedure is considered to have failed.

40.3. In the absence of an amicable settlement, a party may notify the other party requesting a settlement through conciliation by a third person. If the European Commission is not a party to the contract, it may accept to intervene as conciliator. The other party shall respond to the request for conciliation within 30 days. Unless the parties agree otherwise, the maximum time period laid down for reaching a settlement through conciliation shall be 120 days from the notification requesting such a procedure. Should a party not agree to the other party's request for conciliation, should a party not respond in time to that request or should no settlement be reached within the maximum time period, the conciliation procedure is considered to have failed.

40.4. If the amicable settlement procedure and, if so requested, the conciliation procedure fails, each party may refer the dispute to either the decision of a national jurisdiction or arbitration, as specified in the special conditions.

### **ARTICLE 41. APPLICABLE LAW**

41.1. This contract shall be governed by the law of the country of the contracting authority or, where the contracting authority is the European Commission, by the applicable European Union law complemented where necessary by the law of Belgium.

## **DATA PROTECTION**

### **ARTICLE 42. DATA PROTECTION**

42.1. Processing of personal data by the contracting authority

Any personal data included in or relating to the contract, including its implementation, shall be processed in accordance with Regulation (EU) 2018/1725. Such data shall be processed solely for the purposes of the implementation, management and monitoring of the contract by the data controller.

The contractor or any other person whose personal data is processed by the data controller in relation to this contract has specific rights as a data subject under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, rectify or erase their personal data and the right to restrict the processing of their personal data or, where applicable, the right to object to processing or the right to data portability.

Should the contractor or any other person whose personal data is processed in relation to this contract have any queries concerning the processing of its personal data, it shall address itself to the data controller. They may also address themselves to the Data Protection Officer of the data controller. They have the right to lodge a complaint at any time to the European Data Protection Supervisor.

Details concerning the processing of personal data are available in the data protection notice referred to in the special conditions.

#### 42.2. Processing of personal data by the contractor

The processing of personal data by the contractor shall meet the requirements of the general conditions and be processed solely for the purposes set out by the controller.

The contractor shall assist the controller for the fulfilment of the controller's obligation to respond to requests for exercising rights of person whose personal data is processed in relation to this contract as laid down in Chapter III (Articles 14-25) of Regulation (EU) 2018/1725. The contractor shall inform without delay the controller about such requests.

The contractor may act only on documented written instructions and under the supervision of the controller, in particular with regard to the purposes of the processing, the categories of data that may be processed, the recipients of the data and the means by which the data subject may exercise its rights.

The contractor shall grant personnel access to the data to the extent strictly necessary for the implementation, management and monitoring of the contract. The contractor must ensure that personnel authorised to process personal data has committed itself to confidentiality or is under appropriate statutory obligation of confidentiality in accordance with the provisions of Article 7.6 of these general conditions.

The contractor shall adopt appropriate technical and organisational security measures, giving due regard to the risks inherent in the processing and to the nature, scope, context and purposes of processing, in order to ensure, in particular, as appropriate:

- (a) the pseudonymisation and encryption of personal data;
- (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
- (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;
- (e) measures to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.

The contractor shall notify relevant personal data breaches to the controller without undue delay and at the latest within 48 hours after the contractor becomes aware of the breach. In such cases, the contractor shall provide the controller with at least the following information:

- (a) nature of the personal data breach including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
- (b) likely consequences of the breach;

- (c) measures taken or proposed to be taken to address the breach, including, where appropriate, measures to mitigate its possible adverse effects.

The contractor shall immediately inform the data controller if, in its opinion, an instruction infringes Regulation (EU) 2018/1725, Regulation (EU) 2016/679, or other Union or Member State or third country applicable data protection provisions as referred to in the tender specifications.

The contractor shall assist the controller for the fulfilment of its obligations pursuant to Article 33 to 41 under Regulation (EU) 2018/1725 to:

- (a) ensure compliance with its data protection obligations regarding the security of the processing, and the confidentiality of electronic communications and directories of users;
- (b) notify a personal data breach to the European Data Protection Supervisor;
- (c) communicate a personal data breach without undue delay to the data subject, where applicable;
- (d) carry out data protection impact assessments and prior consultations as necessary.

The contractor shall maintain a record of all data processing operations carried on behalf of the controller, transfers of personal data, security breaches, responses to requests for exercising rights of people whose personal data is processed and requests for access to personal data by third parties.

The contracting authority is subject to Protocol 7 of the Treaty on the Functioning of the European Union on the privileges and immunities of the European Union, particularly as regards the inviolability of archives (including the physical location of data and services) and data security, which includes personal data held on behalf of the contracting authority in the premises of the contractor or subcontractor.

The contractor shall notify the contracting authority without delay of any legally binding request for disclosure of the personal data processed on behalf of the contracting authority made by any national public authority, including an authority from a third country. The contractor may not give such access without the prior written authorisation of the contracting authority.

The duration of processing of personal data by the contractor will not exceed the period referred to in Article 7.9 of these general conditions. Upon expiry of this period, the contractor shall, at the choice of the controller, return, without any undue delay in a commonly agreed format, all personal data processed on behalf of the controller and the copies thereof or shall effectively delete all personal data unless Union or national law requires a longer storage of personal data.

For the purpose of Article 4 of these general conditions, if part or all of the processing of personal data is subcontracted to a third party, the contractor shall pass on the obligations referred to in the present article in writing to those parties, including subcontractors. At the request of the contracting authority, the contractor shall provide a document providing evidence of this commitment.

\* \* \*



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# **1. BACKGROUND INFORMATION**

## **1.1. Partner country**

Republic of Moldova and Poland

## **1.2. Contracting authority**

City Hall of Chisinau Municipality

## **1.3. Country background**

Republic of Moldova is a landlocked country in Eastern Europe, bordered by Romania to the west and Ukraine to the north, east, and south. The capital city is Chisinau. Moldova is a parliamentary republic with a president as head of state and a prime minister as head of government. It is a member state of the United Nations, the Council of Europe, the World Trade Organization (WTO), the Organization for Security and Cooperation in Europe (OSCE), the Commonwealth of Independent States (CIS) and the Organization of the Black Sea Economic Cooperation (BSEC) and applied for EU membership.

## **1.4. Current situation in the sector**

Chisinau's population is around 740,000 inhabitants. The city is part of larger metropolitan area - the Chisinau Municipality with a total of more than 800 thousand inhabitants. The area of the city is 120 sq. km and consists of 5 districts. The area of the municipality is 570 sq. km.

Chisinau has a good accessibility of public transport, 90% of the area within a 500 m walking distance to a public transport stop, and up to 250 m in the central area of the city.

An estimated 35% of Chisinau's residents use public transport and it is provided by trolleybuses, buses and minibuses. There is also a functioning railway infrastructure connecting the city, but trains do not currently provide urban public transportation services. Trolleybuses and buses are operated by independent municipal companies. The minibuses are operated by private carriers. The municipal fleet consists of 390 trolleybuses and 143 buses. Over 150 new and used buses are expected to be added before the end of this year.

In 2019 the total number of passengers transported by trolleybuses was approx. 145.6 m or approx. 398.9 thousand journeys daily. Of these, approx. 10.3 m journeys were served by suburban routes connecting the city, and approx. 3.8 m journeys had the origin or destination in one of the localities in the metropolitan area of the city.

Considering the total number of trolleybus units operating daily (321), with around 5000 journeys per day. If a transport unit completes at least 7 full (route round trips), the trolleybus occupancy rate reaches on average 78%.

The bus network comprises 23 bus routes, including 5 urban and 18 suburban. A number of 104 buses serve daily transport operations (there are 143 vehicles at disposal). The vehicle fleet is also obsolete, often exceeds twice the service life (average age of the vehicle is 14 years). Articulated and standard vehicles are again available. Similarly, significant investments are required in the near future to modernise the bus fleet.

The Public Transport system in Chisinau inherits main traits of the former centralised administrative system. The Urban Bus Park (PUA) and Electric Transport Park (RTEC) are the two main operators of public transport in the city. Thereby, PUA provides transport services operating buses and the RTEC operates trolleybuses within Chişinău Municipality area. The current public transport system needs to be optimized and the connecting public transport routes between the city and its suburbs has to be improved in order to ensure better accessibility to the commuters.

***Number of public transport passengers per day intercity (2020), according to RTEC and PUA***

Mode	Operator	Passengers per day	%
Trolleybus	Public	283,000	89%
Bus	Public	34,000	11%
Total		317,000	100.0%

Chisinau metropolitan area includes 34 nearby communities which are considered its suburbs. The mobility needs of persons living in suburbs are very diverse; elderly people need easier access to transport than young people, workers use transport at different times of the day than unemployed and high incomes households can better afford a car than low-income households. Community areas also have special characteristics to be taken into account. Young people move to bigger cities because they cannot find a job in smaller cities and in the community areas it is sometimes difficult for young people to commute to work due to lack of transport solutions. In this context public transport is very important to the sustainability and independence of community areas as it provides people with access to public services, employment, education and training. It should also be considered that the population of the community areas are very dependent of commuting on a daily basis to the city of Chisinau. Not owning a car and not having access to transport services actively contributes to district population poverty, so mobility has a role in economical and demographical dynamism where mobility problems increase social exclusion.

There is a large number of commuters which travels on a daily basis from suburbs to the city. Many routes are served by buses, as the trolleybus infrastructure is limited to the city border.

***Number of public transport passengers per day suburbs-city (2020), according to RTEC and PUA***

Mode	Operator	Passengers per day (suburbs-city)	%
Trolleybus	Public	31,000	59%
Bus	Public	21,100	41%
Total		52,100	100.0%

The goal of providing high quality, efficient and effective public transport is one of the biggest challenges for public authorities in all major cities (countries) and Chisinau is no exception in this respect.

The existing national legislation does not provide sufficiently broad and clear regulation regarding operation of urban public transport systems. The regulatory framework is affected by a lack of specific provisions on the operation of urban transport and enforcement mechanisms, as well as a lack of policies for the sustainable development of public transport in urban areas.

The Chisinau Street network was formed on the radial scheme approach, according to which the centre connects the peripheries by several thoroughfares, and the secondary links between the adjacent zones remains undeveloped. As a result of the considerable increase in the number of vehicles circulating in the municipality, the burden on the urban road network has increased significantly.

Thus, the situation of de-congestion of traffic is very acute and requires considerable and concentrated efforts to solve it. Other causes leading to the aggravation of this problem are inefficient use of the existing street network in the route planning process, lack of parking spaces or unauthorized parking.

The General Department of Public Transport and Roads of Chisinau municipality is the sole regulator and supervisor of passenger transport services, monitoring the public transport safety control, compliance with imposed regulations in the sector, ensuring the coordination of operators, maintaining

the transport standards and other related activities. Efficient management of the transport system is impeded by an insufficient institutional capacity and underdeveloped regulatory framework.

In December 2020 Chisinau City Hall initiated a partnership with Lublin City Hall (Poland) called "Move it Like Lublin – a Chisinau Sustainable Development Initiative" with the financial support for this project provided by the European Union.

The Project's activities aim at supporting the local authorities in Chisinau to transform the city's public transport into more inclusive, safer, more resilient and more sustainable transport. The Project has 3 main objectives:

- 1) Improving urban transport policies at municipal level;
- 2) Increasing the institutional capacities of Chisinau City Hall, in line with EU practices in the field of urban mobility;
- 3) Enhancing the quality of public transport management in Chisinau by implementing innovative solutions and technologies.

### **1.5. Related programmes and other donor activities**

None

## **2. OBJECTIVE, PURPOSE & EXPECTED RESULTS**

### **2.1. Overall objective**

The overall objective of the project of which this contract will be a part of is as follows:

- Improvement of the public transportation system in Chisinau.

### **2.2. Purpose**

The purpose of this contract is to:

- Increase efficiency and capacity of the Chisinau City Hall to monitor and manage traffic (including public transport traffic) by using latest technology and innovation.

### **2.3. Results to be achieved by the contractor**

- Complete design documentation for the development of a Traffic Monitoring Center (TMC) within Chisinau City Hall.
- Roadmap for implementation of the TMC
- Technical specifications for piloting the TMC

## **3. ASSUMPTIONS & RISKS**

### **3.1. Assumptions underlying the project**

- Project continuity will be ensured during the implementation period;
- Government bodies and relevant stakeholders are open to discussion, participation in public hearings, working groups and any other necessary operational meetings regarding project implementation;
- City Hall management, as well as municipal councillors, municipal employees and project staff will have an unimpeded communication and cooperation, with a free exchange of documents, feedback offered in due time and new project documentation elaboration, in order to increase long-term management efficiency at municipal level.

## 3.2. Risks

- Physical risks – the main physical risks of project actions are related to the COVID-19 pandemic, and possible limitations or movement and travel restrictions.
- Environmental risks – no major environment risks pertaining to the project, except the pandemic risks described above.
- Political risks – The political risk here is not big, as the project assumption is the current administration will be allowed to carry out their 4-year term.
- Economic risks – At this point, we do not foresee major economic risks. The budgeted amounts have been secured.
- Social risks – The major social risks pertaining to project actions can be linked to the negative pandemic effects. From a gender perspective, the project is also elaborated ensuring as much as possible gender equality principles and ensuring a fair representation of people with disabilities when possible. Another aspect to be taken into account is the massive influx of refugees from Ukraine, who mostly choose to stay in the country's capital, further loading the city's arteries and overloading public transport.
- Financial sustainability: All equipment acquired during the project will remain within City Hall premises, ensuring continuity of project activities for many years ahead.
- Policy level sustainability: Key project activities pertaining to changing existing provisions and legislation. The best-case scenario is legislation is amended during the project cycle. Worst case scenario, the changes are just initiated during the project cycle, but national legislative authorities not being able to adopt amendments to the legislation according to the policy briefs developed by Public Transport experts within the project, as this domain tends to be overlooked on the national political agenda. Middle scenario is to have just one legislative change during the project implementation, and not 2.

## 4. SCOPE OF THE WORK

### 4.1. General

#### 4.1.1. Description of the assignment

The City Hall seeks to create a Traffic Monitoring Center (TMC), a unit with competent trained staff, that will have the task to not only organise on-going data collection, but also interpret those data sets and generate valuable insights. Later it can turn into ways to effectively improve people's commuting. The TMC will integrate in the future a traffic lights supervision system.

The overall objective of the TMC is to provide smart traffic solutions using latest ITS (intelligent transport systems) for improving the traffic flows by reducing traffic congestion in peak hours (redirecting traffic from the dense streets). This will give local authorities the right tools to launch data-based decision making as the standard decision-making protocol. The TMC will make it a priority to publish, as much data as legally possible, as open data.

In addition, there will be necessary specific equipment and software acquisitions for a fully functional TMC. Therefore, the contractor shall develop a complete design documentation of a fully functional TMC that will include, but not limited, to elements described in paragraph 4.2.

The effectiveness of the TMC work should be achieved by exchange of information between partial systems and using modern methods of analysing and forecasting the traffic situation. The TMC shall have necessary hardware and software solutions to achieving the following main goals:

- Communication planning
- Optimization to ensure consistent real-time control for individual areas
- Device monitoring

- Monitoring the traffic situation
- Direct control (when applicable)
- Control evaluation: conducting on line and off-line analyses and collecting traffic data statistics for later use.

Moreover, the implemented subsystem elements, i.e., information about the traffic situation through variable message signs and mass media, information about the environment (in the future) will be integrated within the public transport management systems.

#### **4.1.2. Geographical area to be covered**

Metropolitan area

#### **4.1.3. Target groups**

- Chisinau City Hall and its relevant subdivisions;
- Project Management Structures;
- Relevant government agencies;
- Public transport operators;
- Other relevant stakeholders.

#### **4.2. Specific work**

The TMC design documentation will include all the necessary elements for creation of the TMC such as, but not limited to:

- a) General description of the subject (general and detailed functional and utility properties, etc.);
- b) Organisational documentation (monitoring procedures, local network design, organisational structure, cyber security procedures, etc.);
- c) Analysis and outline of the overall existing transport infrastructure network (traffic lights, intersections, cameras, etc.) to identify the current equipment's compatibility as ITS and further connectivity to the TMC as external units (e.g., the current traffic lights functionalities, what needs to be done to implementing a system of full accommodation of road traffic at necessary intersections, etc.);
- d) Investment cost estimates (i.e., bill of quantities);
- e) TMC's functionalities (i.e., detailed description):
  - ITS devices monitoring
  - Public transport prioritization
  - Remote Interventions in the traffic light programs (traffic periods etc...)
  - Information for drivers (VMS boards)
  - Monitoring of traffic situation
  - Improvement of traffic safety
  - Monitoring of meteorological conditions
  - Sharing with external bodies (dividing legal competences between municipal police, road police, etc.)
  - Possibility of conducting analyses and collecting statistics on road traffic data
  - Traffic modelling, conducting traffic simulations
  - Etc.

- f) Design of the TMC's basic elements, including components required for the cooperation of the following subsystems:
- subsystem for the control of signalling and variable message control systems;
  - public transport priority subsystem;
  - road safety management and license plate reading subsystem;
  - archiving, analysis and planning subsystem, as well as traffic situation information.
- g) List and technical specification of TMC internal equipment, such as screens (monitors), data processing servers, workstations, etc. (based on the area coverage of the traffic lights system);
- h) Design drawings for TMC staff room where internal equipment (i.e., screens, desks, computers, etc.) will be installed;
- i) List and minimum technical requirements of the TMC external equipment (e.g., technical infrastructure for the intersections, cameras, controllers, sensors, smart traffic lights, etc.);
- j) List and technical specification of the latest traffic management software;
- k) The city area coverage for signalling intersection and video monitoring;
- l) Suggestions on streets and intersection points that needs to be equipped with technical infrastructure (fiber optic network, etc.) for supplementing subsystems and connecting necessary external equipment;
- m) Roadmap for implementing the TMC (it shall include and describe in details concrete steps for implementation process):
- First stage – Piloting the TMC (what functionalities shall integrate the TMC at this stage, described in details.)
  - Second stage – Expanding the TMC (it shall include further expansion of the TMC with increased functionalities and additional necessary internal and external equipment)
  - Etc.
- n) Technical specifications for piloting the TMC (based on the TMC design, roadmap for implementation of TMC and the budget available for TMC piloting).

All the documentation shall be consulted with the beneficiary and adjustments shall be made if requested. Therefore, there will be 4 reports that shall be submitted to the Project Manager in the terms described in paragraph 7.

### 4.3. Project management

#### 4.3.1. Responsible body

Chisinau City Hall

#### 4.3.2. Management structure

<b>Project Implementation Unit</b>	<b>Project Board</b>	<b>Steering Committee</b>	<b>Work Group on Public Transport</b>
- plans, prepares and implements every single project action in accordance with the Logical Framework and project calendar	- coordinates the qualitative implementation, in the established terms of the Project actions	- discuss progress, updates and any issues arising during project implementation	- contributes and supports successful implementation of the project actions

#### **4.3.3. Facilities to be provided by the contracting authority and/or other parties**

Meeting facilities at the Chisinau City Hall and the General Directorate of Public Transport and Roads premises.

### **5. LOGISTICS AND TIMING**

#### **5.1. Location**

Chisinau City Hall, 83 Stefan cel Mare și Sfint Blvd, MD-2012, Chisinau, Moldova

#### **5.2. Start date & period of implementation of tasks**

The Services are expected to start during November 2022 with an implementation period of 4 months.

### **6. REQUIREMENTS**

#### **6.1. Staff**

Note that civil servants and other staff of the public administration of the partner country, or of international/ regional organisations based in the country, shall only be approved to work as experts if well justified. The justification should be submitted with the tender and shall include information on the added value the expert will bring as well as proof that the expert is seconded or on personal leave.

##### **6.1.1. Key experts**

Contracting authority intends to engage a company as the Contractor for a complete design documentation of the TMC. The Contractor shall have prior experience in producing similar documentation for development projects. In particular, the Contractor's prior experience shall cover design and implementation of the TMC, including ITS systems, traffic data processing, analysis and statistics. Familiarity with other similar EU projects is an advantage. The Contractor shall mobilize the professional team consisting of competent experts to implement the current assignment. A multi-disciplinary team of experts with advanced degrees in traffic engineering and experience in traffic management and similar projects shall be engaged. The Contractor will appoint a Team Leader responsible for coordinating the works, ensuring involvement of relevant experts in the works and timely delivery of high-quality outputs, as well as liaising with the Contracting authority.

During implementation of this assignment the Contractor shall use its office, vehicles and equipment and onsite questionnaire operators.

#### **6.2. Office accommodation**

Office accommodation for each expert working on the contract is to be provided by the contractor.

#### **6.3. Facilities to be provided by the contractor**

The contractor shall ensure that experts are adequately supported and equipped. In particular it must ensure that there is sufficient administrative, secretarial and interpreting provision to enable experts to concentrate on their primary responsibilities. It must also transfer funds as necessary to support their work under the contract and to ensure that its employees are paid regularly and in a timely fashion.

#### **6.4. Equipment**

No equipment is to be purchased on behalf of the contracting authority / partner country as part of this service contract or transferred to the contracting authority / partner country at the end of this contract. Any equipment related to this contract which is to be acquired by the partner country must be purchased by means of a separate supply tender procedure.



## 7. REPORTS

### 7.1. Reporting requirements

The contractor will submit the following reports in Romanian and English language in two originals:

- **Inception Report** of maximum 12 pages to be produced after 1 month from the start of implementation. In the report the contractor shall describe e.g., initial findings, data sources, any difficulties encountered or expected and the work plan, as well as recommendations under letter a. of the paragraph 4.2 above. The contractor should proceed with its work unless the contracting authority sends comments on the inception report.
- **Interim Report** of maximum 30 pages to be produced after 2 months from the start of implementation. In the report the contractor shall outline main chapters and elements for creating a TMC, as well as provide outputs of the specific work (under letters b, c, d, g, h, i and j) from paragraph 4.2. above. The contractor should proceed with its work unless the contracting authority sends comments on the Interim Report.
- **Draft final Report** of maximum 50 pages (main text, excluding annexes) in .doc format and according to the outline provided in the Interim Report. The Report shall contain all the deliverables from specific work (paragraph 4.2). This report shall be submitted no later than two weeks before the end of the period of implementation of tasks.
- **Final Report** with the same specifications as the draft final report, incorporating any comments received from the parties on the draft report. The deadline for sending the final report is 7 days after receipt of comments on the draft final report. The final report must be provided along with the corresponding invoice.

### 7.2. Submission and approval of reports

The report referred to above must be submitted to the Project Manager identified in the contract. The Project Manager is responsible for approving the reports.

## 8. MONITORING AND EVALUATION

### 8.1. Definition of indicators

- Reports submitted and approved by Project Manager.

### 8.2. Special requirements

None

# **ANNEX III: ORGANISATION & METHODOLOGY**

## **To be completed by the tenderer**

Please provide the following information:

### **1. RATIONALE**

- Any comments you have on the terms of reference for the successful execution of activities, in particular regarding the objectives and expected results, thus demonstrating the degree of understanding of the contract. Your opinion on the key issues related to the achievement of the contract objectives and expected results.
- An explanation of the risks and assumptions affecting the execution of the contract.

### **2. STRATEGY**

- An outline of the approach proposed for contract implementation.
- A list of the proposed tasks you consider necessary to achieve the contract objectives.
- Inputs and outputs.

### **3. BACKSTOPPING, SUBCONTRACTING AND CAPACITY PROVIDING ENTITIES**

- A description of the support facilities (back-stopping) that the contractor will provide to the team of experts during execution of the contract. The back-up function will be assessed in the evaluation and should be carefully explained in the organisation and methodology, including the list of staff, units, capacity of permanent staff regularly intervening as experts on similar projects, provision of expertise in the region/country or origin as well as partner countries, organisational structure, etc. which are supposed to ensure that function, as well as the available quality systems and knowledge capitalisation methods and tools, within the respective members of the consortium.
- A description of any subcontracting arrangements and arrangements with capacity providers (if such were identified during the shortlisting stage) with a clear indication of the tasks that will be entrusted to subcontractors and to capacity providers and a statement by the tenderer guaranteeing the eligibility of subcontractors and capacity providers.

### **4. INVOLVEMENT OF ALL MEMBERS OF THE CONSORTIUM AND OF CAPACITY PROVIDING ENTITIES**

- If a tender is submitted by a consortium, a description of the input from each member of the consortium and the distribution and interaction of tasks and responsibilities between them. Furthermore, the involvement of all members of the consortium will be considered added value in the tender evaluation. If the tender is submitted by a single company, the total of available points for this part in the evaluation grid will be allocated.
- If the tenderer relied on the capacity of other entities to fulfil the technical and professional criteria, evidence of the written commitment provided by those entities for performing the services for which their technical and professional capacities are required must be provided.
- If the tenderer relied on the capacity of other entities to fulfil the economic and financial criteria, evidence of the written commitment provided by those entities establishing their joint liability for the performance of the contract must be provided.

## **Organisation & methodology**

### **5. TIMETABLE OF WORK**

- The timing, sequence and duration of the proposed tasks, taking into account travel time.
- The identification and timing of major milestones in executing the contract, including an indication of how the achievement of these would be reflected in any reports, particularly those stipulated in the terms of reference.
- The methodologies contained in the offer should include a work plan indicating the envisaged resources to be mobilised.

## ANNEX IV: BUDGET

**Global price:** EUR <amount>

Please include a price breakdown based on the outputs/deliverables in the terms of reference.



## FINANCIAL IDENTIFICATION

PRIVACY STATEMENT

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm#en](http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm#en)

Please use CAPITAL LETTERS and LATIN CHARACTERS when filling in the form.

### **BANKING DETAILS** ①

ACCOUNT NAME ②

IBAN/ACCOUNT NUMBER ③

CURRENCY

BIC/SWIFT CODE

BRANCH CODE ④

BANK NAME

ADDRESS OF BANK BRANCH

STREET & NUMBER

TOWN/CITY

POSTCODE

COUNTRY

### **ACCOUNT HOLDER'S DATA**

AS DECLARED TO THE BANK

ACCOUNT HOLDER

STREET & NUMBER

TOWN/CITY

POSTCODE

COUNTRY

REMARK

BANK STAMP + SIGNATURE OF BANK REPRESENTATIVE ⑤

DATE (Obligatory)

SIGNATURE OF ACCOUNT HOLDER (Obligatory)

- ① Enter the final bank data and not the data of the intermediary bank.
- ② This does not refer to the type of account. The account name is usually the one of the account holder. However, the account holder may have chosen to give a different name to its bank account.
- ③ Fill in the IBAN Code (International Bank Account Number) if it exists in the country where your bank is established
- ④ Only applicable for US (ABA code), for AU/NZ (BSB code) and for CA (Transit code). Does not apply for other countries.
- ⑤ It is preferable to attach a copy of RECENT bank statement. Please note that the bank statement has to confirm all the information listed above under 'ACCOUNT NAME', 'ACCOUNT NUMBER/IBAN' and 'BANK NAME'. With an attached statement, the stamp of the bank and the signature of the bank's representative are not required. The signature of the account-holder and the date are ALWAYS mandatory.



PLEASE COMPLETE AND SIGN THIS FORM AND ATTACH COPIES OF OFFICIAL SUPPORTING DOCUMENTS (REGISTER(S) OF COMPANIES, OFFICIAL GAZETTE, VAT REGISTRATION, ETC.)

## LEGAL ENTITY

PRIVACY STATEMENT

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm#en](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm#en)

Please use CAPITAL LETTERS and LATIN CHARACTERS when filling in the form.

### PRIVATE/PUBLIC LAW BODY WITH LEGAL FORM

<b>OFFICIAL NAME</b> ①			
<b>BUSINESS NAME</b> (if different)			
<b>ABBREVIATION</b>			
<b>LEGAL FORM</b>			
<b>ORGANISATION TYPE</b>	<b>FOR PROFIT</b>	<b>NGO</b> ②	<b>YES</b> <b>NO</b>
	<b>NON FOR PROFIT</b>		
<b>MAIN REGISTRATION NUMBER</b> ③			
<b>SECONDARY REGISTRATION NUMBER</b> (if applicable)			
<b>PLACE OF MAIN REGISTRATION</b>	<b>CITY</b>		
	<b>COUNTRY</b>		
<b>DATE OF MAIN REGISTRATION</b>	<b>DD</b>	<b>MM</b>	<b>YYYY</b>
<b>VAT NUMBER</b>			
<b>ADDRESS OF HEAD OFFICE</b>			
<b>POSTCODE</b>	<b>P.O. BOX</b>	<b>CITY</b>	
<b>COUNTRY</b>			<b>PHONE</b>
<b>E-MAIL</b>			

<b>DATE</b>
-------------

<b>STAMP</b>
--------------

<b>SIGNATURE OF AUTHORISED REPRESENTATIVE</b>
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① National denomination and its translation in EN or FR if existing.

② NGO = Non Governmental Organisation, to be completed if NFPO is indicated.

③ Registration number in the national register of companies. See table with corresponding field denomination by country.

## TABLE WITH CORRESPONDING FIELD DENOMINATION BY COUNTRY

ISO CODE	MAIN REGISTRATION NUMBER
AT	Firmenbuchnummer (FN) Zentrale Vereinregister (ZVR-Zahl) Ordnungsnummer
BE	Numéro d'entreprise Ondernemingsnummer Unternehmensnummer
BG	Булстат (Bulstat Code) Единен идентификационен код (ЕИК/ПИК) Unified Identification Code (UIC)
CY	Αριθμός Εγγραφής Αριθμός Μητρώου
CZ	Identifikační číslo (IČO)
DE	Handelsregister Genossenschaftsregister (Nummer de Firma) Vereinsregister (Nummer des Vereins) Nummer der Partnerschaft (Partnerschaftsregister)
DK	Det centrale virksomhedsregister (CVR-nummer)
EE	Registrikood
ES	HOJA number
FI	Yritys- ja yhteisötunnus (Y-tunnus) Företags- och organisationsnummer (FO-nummer) Business Identity code (Business ID)
FR	Immatriculation au Registre de Commerce et de Sociétés (RCS) Système Informatique du Répertoire des Entreprises (SIRENE)
GB	Company number
GR	ΑΡΙΘΜΟΣ Γ.Ε.ΜΗ ( Γενικού Εμπορικού Μητρώου) Δικηγορικός Σύλλογος Αθηνών (Δ.Σ.Α)
HR	Matični broj subjekta (MBS) Pod registarskim Brojem Matični broj obrta (MBO) Registarski Broj kakladnog
HU	Cégjegyzékszám
IE	Company number Grouping registration number in Ireland
IT	Repertorio Economico Amministrativo (REA)
LT	Kodas
LU	Registre de commerce et des sociétés RCS Numéro d'immatriculation Handelsregisternummer
LV	Vienotais Reģistrācijas Numurs

<b>MT</b>	Registration number Register of Voluntary Organisation (Identification number)
<b>NL</b>	Kamer van Koophandel (KvK-nummer) Dossiernummer
<b>PL</b>	REGON
<b>PT</b>	Numero de identificação de pessoa colectiva (NIPC)
<b>RO</b>	Numar de ordine in registrul comertului Numarul inscrierii in registrul special
<b>SE</b>	Organisationsnummer
<b>SI</b>	Matična številka
<b>SK</b>	Identifikačné číslo (ICO)



## **C. Other information**

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**LIST OF ENTITIES INVITED TO SUBMIT A TENDER**

**Design of the traffic monitoring center  
Chişinău – Republic of Moldova**

To all eligible candidates.

## ADMINISTRATIVE COMPLIANCE GRID

<b>Contract title:</b>	DESIGN OF THE TRAFFIC MONITORING CENTER	<b>Reference:</b>	MILL/S/DTMC/2022
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Tender envelope number	Tenderer's name (Leader) (Nationality)	Other members of the consortium if any Name (Nationality)	Within deadline?	Tender submission form duly completed and only 1 tender per tenderer?	Eligible nationality (all parties including subcontractors if known)?	Tenderer's declaration (signed by each consortium member, if appropriate)?	Language as required?	Economic & financial capacity? (OK/a/b/...) <sup>1</sup>	Professional capacity? (OK/a/b/...)	Technical capacity? (OK/a/b/...)	Organisation & methodology exists?	Key experts (list + CVs)(For contracts requiring key experts)?	Key experts are present in only one tender as key experts(For contracts requiring key experts)?	All key experts have signed statements of exclusivity & availability(For contracts requiring key experts)?	Sub-contracting statement acceptable?	Overall decision? (Accept / Reject)
1																
2																
3																
4																
5																
6																
7																
8																

<b>Chairperson's name</b>	
<b>Chairperson's signature</b>	
<b>Date</b>	

<sup>1</sup> Enter 'OK' if all criteria have been satisfied, otherwise enter 'a', 'b', 'c', etc to record any criteria which have not been satisfied.

# EVALUATION GRID FOR GLOBAL PRICE CONTRACTS

	<b>Maximum</b>
<b>Organisation and methodology</b>	
Rationale	20
Strategy	40
Back-up function	10
Involvement of all members of the consortium	10
Timetable of activities	20
<b>Overall total score</b>	<b>100</b>

<b>Strengths</b>	
<b>Weaknesses</b>	

NB: Only tenders with average scores of at least 75 points qualify for the financial evaluation

**D. Tender submission form and  
declaration of honour on exclusion and  
selection criteria**

## SERVICE TENDER SUBMISSION FORM

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Ref: MILL/S/DTMC/2022

### DESIGN OF THE TRAFFIC MONITORING CENTER CHIȘINĂU – REPUBLIC OF MOLDOVA

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**Please supply one signed tender** (including signed statements of exclusivity and availability from all key experts proposed, if applicable, a completed financial identification form and a completed legal entity file (only for the leader) and declarations from the Leader and all members (if you are in a consortium), together with three copies. The attachments to this submission form (i.e. declarations, statements, proofs) may be in original or copy. If copies are submitted, the originals must be dispatched to the contracting authority upon request. For economic and ecological reasons, we strongly recommend that you submit your files on paper (no plastic folder or divider). We also suggest you use double-sided printing wherever possible. **All data included in this application must concern only the legal entity or entities making the tender.**

Any additional documentation (brochures, letters etc.) sent with your tender will not be taken into consideration. Applications submitted by a **consortium** (i.e. either a permanent, legally-established grouping or a grouping set up informally for a specific tender procedure) must follow the instructions applicable to the consortium leader and its members.

An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. If the economic operator relies on other entities it must prove to the contracting authority that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment on the part of those entities to place those resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility - notably that of nationality – and must comply with the selection criteria for which the economic operator relies on them. Furthermore, the data for this third entity for the relevant selection criterion should be included in the tender in a separate document. Proof of the capacity will also have to be provided when requested by the contracting authority. With regard to technical and professional criteria, an economic operator may only rely on the capacities of other entities where the latter will perform the services for which these capacities are required. With regard to economic and financial criteria, the entities upon whose capacity the tenderer relies become jointly and severally liable for the performance of the contract.

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**1 SUBMITTED by (i.e. the identity of the tenderer)**

	<b>Name(s) of legal entity or entities making this application</b>	<b>Nationality<sup>1</sup></b>
<b>Leader<sup>2</sup></b>		
<b>Member</b>		
<b>Etc.</b>		

**2 CONTACT PERSON (for this tender)**

<b>Name</b>	
<b>Organisation</b>	
<b>Address</b>	
<b>Telephone</b>	
<b>Fax</b>	
<b>e-mail</b>	

### 3 ECONOMIC AND FINANCIAL CAPACITY<sup>3</sup>

Please complete the following table of financial data<sup>4</sup> based on your annual closed accounts and your latest projections. If annual accounts are not yet available for the current year or past year, please provide your latest estimates in the columns marked with \*\*. Figures in all columns must be calculated on the same basis to allow a direct, year-on-year comparison to be made (or, if the basis has changed, please provide an explanation of the change as a footnote to the table). When the current ratio is set as selection criterion, for non-for-profit organisations the ratio has to be calculated without taking into account within the current liabilities the pre-financing received from donors for ongoing projects. Any other clarification or explanation which is judged necessary may also be provided. If the tenderer is a public body, please provide equivalent information.

<b>Financial data</b> Data requested in this table must be consistent with the selection criteria set in the contract notice	<b>2 years before last year<sup>5</sup></b> <specify> EUR	<b>Year before last year<sup>5</sup></b> <specify> EUR	<b>Last year<sup>5</sup></b> <specify> EUR	<b>Average<sup>6</sup></b> EUR	<b>[Past-year EUR]**</b>	<b>[Current year EUR]**</b>
Annual turnover <sup>7</sup> , excluding this contract						
Current assets <sup>8</sup>						
Current liabilities <sup>9</sup>						
[Current ratio (current assets/current liabilities)]	Not applicable	Not applicable		Not applicable	Not applicable	Not applicable]



#### 4 STAFF

Please provide the following statistics on staff for the current year and the two previous years<sup>10</sup>.

Annual Manpower	Year before past year		Past year		Current year		Period average	
	Overall	Relevant fields <sup>11</sup>	Overall	Relevant fields <sup>11</sup>	Overall	Relevant fields <sup>11</sup>	Overall	Relevant fields <sup>11</sup>
Permanent staff <sup>12</sup>								
Other staff <sup>13</sup>								
Total								
Permanent staff as a proportion of total staff (%)	%	%	%	%	%	%	%	%

#### 5 AREAS OF SPECIALISATION

Please fill in the table below to indicate any areas of specialist knowledge related to this contract for each legal entity making this tender. State the type of area of specialisation as the row heading and use the name of the legal entity as the column headings. Indicate the areas of specialist knowledge each legal entity has by placing a tick (✓) in the box corresponding to the specialisation in which it has significant experience. **Maximum 10 specialisations.**

	Leader	Member 2	Member 3	Etc.
Relevant specialisation 1				
Relevant specialisation 2				
Etc. <sup>11</sup>				

## 6 EXPERIENCE

Please fill in the table below to summarise the main projects related to this contract carried out over the past 3 years<sup>12</sup> by the legal entity or entities making this tender. The number of references to be provided must not exceed 15 for the entire tender.

Ref no (maximum 15)	Project title							
Name of legal entity	Country	Overall contract value (EUR) <sup>13</sup>	Proportion carried out by legal entity (%) <sup>18</sup>	No of staff provided	Name of client	Origin of funding	Dates (start/end) <sup>14</sup>	Name of consortium members, if any
...	...	...	...	...	...	...	...	...
<b>Detailed description of project</b>						<b>Type and scope of services provided<sup>15</sup></b>		
...						...		

## 7 DECLARATIONS

As part of their tender, each legal entity identified under point 1 of this tender, including every consortium member, must submit a signed declaration using the attached format. The declaration may be in original or in copy. If copies are submitted, the originals must be sent to the contracting authority upon request.

Moreover, each legal entity identified under point 1 of this application, including every consortium member, and each capacity-providing entity (if any) must submit a signed declaration on honour on exclusion and selection criteria (form A14 available at the following link: <http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A> ).

## 8 STATEMENT

I, the undersigned, being the authorised signatory of the above tenderer (for a consortium, this must include all consortium members), hereby declare that we have examined and accept without reserve or restriction the entire contents of the tender dossier for the tender procedure referred to above. We offer to provide the services requested in the tender dossier on the basis of the following documents, which comprise our technical offer, and our financial offer, which is submitted in a separate, sealed envelope:

- Organisation & methodology
- Key experts (comprising a list of the key experts and their CVs), if required

- ❑ Tenderer's declarations (for a consortium, two from each consortium member)
- ❑ Statements of exclusivity and availability signed by each of the key experts, if required
- ❑ Completed financial identification form (see Annex VI to the draft contract) providing details of the bank account into which payments under the proposed contract should be made in the event that we are awarded the contract (or the financial identification number or a copy of the financial identification form provided to the contracting authority on an earlier occasion, unless it has changed in the meantime)
- ❑ Completed legal entity file (or the legal entity number allocated. Alternatively a copy of the legal entity file provided to the contracting authority on an earlier occasion, unless the legal status has changed in the meantime)
- ❑ Duly authorised signature: an official document (statutes, power of attorney, notary statement, etc.) proving that the person who signs on behalf of the company/joint venture/consortium is duly authorised to do so.
- ❑ Documentary proof or statements required under the law of the country where we are effectively established (or each of the companies in case of a consortium), to show that we do not fall into any of the exclusion situations listed in Section 2.6.10.1 of the practical guide. This evidence or these documents or statements must carry a date, which is not more than one year before the date of submission of the tender. In addition, a statement is furnished stating that the situations described in these documents have not changed since then.
- ❑ Documentary evidence of the financial and economic capacity as well as the technical and professional capacity according to the selection criteria specified in the contract notice.

[We undertake to guarantee the eligibility of the subcontractor(s) for the parts of the services for which we have stated our intention to subcontract in the organisation and methodology.] (delete this sentence if not applicable)

This tender is subject to acceptance within the validity period stipulated in clause 6 of the instructions to tenderers.

We understand that our tender may be rejected if we propose key experts who have been involved in preparing this project or employ them as advisers in the preparation of our tender. We also understand that this may mean exclusion from other tender procedures and contracts funded by the EU/EDF.

We are fully aware that, for a consortium, the composition of the consortium cannot be changed in the course of the tender procedure, unless the contracting authority has given its prior approval in writing. We are also aware that the consortium members have joint and several liability towards the contracting authority concerning participation in the above tender procedure and any contract awarded to us as a result of it.

We understand that entities upon whose capacity we rely with regard to economic and financial criteria, become jointly and severally liable for the performance of the contract.

Signed on behalf of the tenderer

<b>Name</b>	
<b>Signature</b>	
<b>Date</b>	

**FORMAT FOR THE DECLARATION REFERRED TO IN POINT 7  
OF THE TENDER SUBMISSION FORM  
To be submitted on the headed notepaper of the legal entity concerned**

<Date>

<Name and address of the contracting authority — see points 8 of the instructions to tenderers >

Your ref: < reference >

**TENDERER'S DECLARATION**

Dear Sir/Madam

In response to your letter of invitation for the above contract we, < name(s) of legal entity or entities >, hereby declare that we:

- are submitting this tender [ on an individual basis ]\* [ as member of the consortium led by < name of the leader > [ourselves ]]\* for this contract. We confirm that we are not participating in any other tender for the same contract in any form (as a member, leader, in a consortium or as an individual candidate);
- agree to abide by the ethics clauses in Section 13 of the instructions to tenderers, have not been involved in the preparation of the project which is the subject of this tender procedure unless it is proved that the involvement in previous stages of the project does not constitute unfair competition, and have no professional conflicting interests and/or any relation with other tenderers or other parties in the tender procedure or behaviour which may distort competition at the time of submission of this tender according to Section 2.5.4. of the practical guide;
- [have attached a current list of the enterprises in the same group or network as ourselves ] [are not part of a group or network ]\* and have only included data in the tender form concerning the resources and experience of [our legal entity] [our legal entity and the entities for which we attach a written undertaking]\*;
- will inform the contracting authority immediately if there is any change in the above circumstances at any stage during the implementation of the tasks;
- fully recognise and accept that if the above-mentioned persons participate in spite of being in any of the situations listed in Section 2.6.10.1.1. of the practical guide or if the declarations or information provided prove to be false they may be subject to rejection from this procedure and to administrative sanctions in the form of exclusion and financial penalties up to 10% of the total estimated value of the contract being awarded and that this information may be published on the Commission website in accordance with the Financial Regulation in force;
- are aware that, for the purposes of safeguarding the EU's financial interests, our personal data may be transferred to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel or to the European Anti-Fraud Office.

We understand that our tender and the expert may be excluded if we propose the same key expert as another tenderer or if we propose a key expert who is engaged in an EU/EDF financed project if the input from his/her position in that contract could be required on the same dates as his/her work under this contract.

We understand that if we fail to respond within the delay after receiving the notification of award, or if the information provided is proved false, the award may be considered null and void.

**DECLARATION ON HONOUR ON EXCLUSION AND SELECTION CRITERIA**

Insert form A14.

\* Delete as applicable

**If this declaration is completed by a consortium member:**

The following table contains our financial data as included in the consortium’s application form. These data are based on our annual closed accounts and our latest projections. Estimated figures (i.e. those not included in annual closed accounts) are given in the columns marked with \*\*. Figures in all columns are calculated on the same basis to allow a direct, year-on-year comparison to be made (or, if the basis has changed, an explanation of the change must be provided as a footnote to the table). When the current ratio is set as selection criterion, for non-for-profit organisations the ratio has to be calculated without taking into account within the current liabilities the pre-financing received from donors for ongoing projects. Any clarification or explanation which is judged necessary may also be provided.

<b>Financial data</b> Data requested in this table must be consistent with the selection criteria set in the contract notice	<b>2 years before last<sup>5</sup></b> <specify> EUR	<b>Year before last year<sup>5</sup></b> <specify> EUR	<b>Last year<sup>5</sup></b> <specify> EUR	<b>Average<sup>6</sup></b> EUR	<b>[Past year EUR]**</b>	<b>[Current year EUR]**</b>
Annual turnover <sup>7</sup> , excluding this contract						
Current assets <sup>8</sup>						
Current liabilities <sup>9</sup>						
[Current ratio (current assets/current liabilities)]	Not applicable	Not applicable		Not applicable	Not applicable	Not applicable

The following table contains statistics on our staff, as included in the consortium’s tender form:

<b>Average manpower</b>	<b>Year before past year</b>		<b>Past year</b>		<b>Current year</b>		<b>Period average</b>	
	<b>Overall</b>	<b>Relevant fields<sup>11</sup></b>	<b>Overall</b>	<b>Relevant fields<sup>11</sup></b>	<b>Overall</b>	<b>Relevant fields<sup>11</sup></b>	<b>Overall</b>	<b>Relevant fields<sup>11</sup></b>
Permanent staff <sup>12</sup>								
Other staff <sup>13</sup>								

Yours faithfully,

<Signature of authorised representative>

<Name and position of authorised representative>

## STATEMENT OF EXCLUSIVITY AND AVAILABILITY<sup>16</sup>

**PUBLICATION REF:** \_\_\_\_\_

I, the undersigned, hereby declare that I agree to participate exclusively with the tenderer < tenderer name > in the above-mentioned service tender procedure. This includes that I will not be proposed as a replacement expert in this tender procedure. I declare that I am able and willing to work for the period(s) set for the position for which my CV has been included if this tender is successful, namely:

From	To	Availability
< start of period 1 >	< end of period 1 >	[full time] [part time]
< start of period 2 >	< end of period 2 >	[full time] [part time]
< etc. >		

I confirm that I do not have a confirmed engagement<sup>17</sup> as key expert in another EU/EDF-funded project, or any other professional activity, incompatible in terms of capacity and timing with the above engagements.

By making this declaration, I understand that I am not allowed to offer my services as an expert to any other tenderer participating in this tender procedure. I am fully aware that if I do so, I will be excluded from this tender procedure, the tenders will be rejected, and I may also be subject to exclusion from other tender procedures and contracts funded by the EU/EDF.

I also declare that I am not in a situation of conflict of interest or unavailability and commit to inform the tenderer(s) of any change in my situation.

I acknowledge that I have no contractual relations with the contracting authority and in case of dispute concerning my contract with the contractor I shall address myself to the latter and/or to the competent jurisdictions.

[For information, I have signed a statement of exclusivity and availability for the following tender(s):

Tender reference	Submission deadline for the tender	Tendered engagement
< tender reference >	< date >	[full time] [part time]
< tender reference >	< date >	[full time] [part time]
< etc. >		

Should I receive a confirmed engagement I declare that I will accept the first engagement offered to me chronologically. Furthermore I will notify the tenderer immediately of my unavailability. ]

<b>Name</b>	
<b>Signature</b>	
<b>Date</b>	

<sup>1</sup> Country in which the legal entity is registered.

<sup>2</sup> Add/delete additional lines for consortium members as appropriate. **Note** that a subcontractor is not considered to be a consortium member for the purposes of this application form. Subsequently, data on subcontractors must not appear in the data related to the economic, financial and professional capacity. If this application is submitted by an individual

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legal entity, the name of that legal entity should be entered as 'Leader' (and all other lines should be deleted). Any change in the identity of the Leader and/or any consortium members between the deadline for receipt of applications indicated in the Contract notice and the award of the contract is not permitted without the prior written consent of the contracting authority.

<sup>3</sup> Natural persons must prove their capacity in accordance with the selection criteria and by the appropriate means.

<sup>4</sup> If this application is submitted by a consortium, the data in the table must be the sum of the data in the corresponding tables in the declarations provided by the consortium members — see point 7 of this application form. Consolidated data are not requested for financial ratios.

<sup>5</sup> Last year = last accounting year for which the entity's accounts have been closed.

<sup>6</sup> Amounts entered in the 'Average' column must be the mathematical average of the amounts entered in the three preceding columns of the same row.

<sup>7</sup> The gross inflow of economic benefits (cash, receivables, other assets) generated from the ordinary operating activities of the enterprise (such as sales of goods, sales of services, interest, royalties, and dividends) during the year.

<sup>8</sup> A balance sheet account that represents the value of all assets that are reasonably expected to be converted into cash within one year in the normal course of business. Current assets include cash, accounts receivable, inventory, marketable securities, prepaid expenses and other liquid assets that can be readily converted to cash.

<sup>9</sup> A company's debts or obligations that are due within one year. Current liabilities appear on the company's balance sheet and include short term debt, accounts payable, accrued liabilities and other debts.

<sup>10</sup> If this application is submitted by a consortium, the data in the table above must be the sum of the data in the corresponding tables in the declarations provided by the consortium members — see point 7 of this application form.

<sup>11</sup> Add / delete additional lines and/or rows as appropriate. If this application is submitted by an individual legal entity, the name of the legal entity should be entered as 'Leader' (and all other columns should be deleted).

<sup>12</sup> For framework contracts, only specific contracts corresponding to assignments implemented under such framework contracts shall be considered.

<sup>13</sup> The effect of inflation will not be taken into account.

<sup>14</sup> If the reference contract is only partially completed, please quote the percentage and value which has been completed.

<sup>15</sup> When supporting documents are to be issued by contracting authorities after the date of publication of PRAG 2014, please also indicate the function of key experts provided, whether belonging or not to permanent staff, and the number of months each of them worked on the project.

<sup>16</sup> To be completed by all key experts.

<sup>17</sup> The engagement of an expert is confirmed if the expert is committed to work as a key expert under a signed contract financed by the EU general budget or the EDF or if he/she is a key expert in a tender which has received a notification of award. The date of confirmation of the engagement in the latter case is that of the notification of award to the Contractor.

<sup>18</sup> Only the proportion carried out by the legal entity may be used as reference.



## Declaration on honour on exclusion criteria and selection criteria

The undersigned [*insert name of the signatory of this form*], representing:

<i>(only for natural persons)</i> himself or herself	<i>(only for legal persons)</i> the following legal person:
ID or passport number:  ('the person')	Full official name: Official legal form: Statutory registration number: Full official address: VAT registration number:  ('the person')

The person is not required to submit the declaration on exclusion criteria if the same declaration has already been submitted for the purposes of another award procedure of the same contracting authority<sup>1</sup>, provided the situation has not changed, and that the time that has elapsed since the issuing date of the declaration does not exceed one year.

In this case, the signatory declares that the person has already provided the same declaration on exclusion criteria for a previous procedure and confirms that there has been no change in its situation:

Date of the declaration	Full reference to previous procedure

### I – SITUATION OF EXCLUSION CONCERNING THE PERSON

(1) declares that the above-mentioned person is in one of the following situations:	YES	NO
(a) it is bankrupt, subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under EU or national legislation or regulations;	<input type="checkbox"/>	<input type="checkbox"/>
(b) it has been established by a final judgement or a final administrative decision that the person is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law;	<input type="checkbox"/>	<input type="checkbox"/>
(c) it has been established by a final judgement or a final administrative decision that the person is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:		

<sup>1</sup> The same institution or agency.

(i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract or an agreement;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) entering into agreement with other persons with the aim of distorting competition;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) violating intellectual property rights;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) attempting to influence the decision-making process of the contracting authority during the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(d) it has been established by a final judgement that the person is guilty of the following:		
(i) fraud, within the meaning of Article 3 of Directive (EU) 2017/1371 and Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) corruption, as defined in Article 4(2) of Directive (EU) 2017/1371 and Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997, and conduct referred to in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the applicable law.	<input type="checkbox"/>	<input type="checkbox"/>
(iii) conduct related to a criminal organisation, referred to in Article 2 of Council Framework Decision 2008/841/JHA;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) money laundering or terrorist financing within the meaning of Article 1(3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;	<input type="checkbox"/>	<input type="checkbox"/>
(vi) child labour or other offences concerning trafficking in human beings as referred to in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(e) it has shown significant deficiencies in complying with the main obligations in the performance of a contract or an agreement financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an contracting authority, OLAF or the Court of Auditors;	<input type="checkbox"/>	<input type="checkbox"/>
(f) it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;	<input type="checkbox"/>	<input type="checkbox"/>
(g) it has been established by a final judgment or final administrative decision that the person or entity has created an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations of mandatory	<input type="checkbox"/>	<input type="checkbox"/>

application in the jurisdiction of its registered office, central administration or principal place of business		
(h) it has been established by a final judgment or final administrative decision that an entity has been created with the intent provided for in point (g).	<input type="checkbox"/>	<input type="checkbox"/>
(i) for the situations under points (c) to (h) the person is subject to: i.facts established in the context of audits or investigations carried out by the European Public Prosecutor’s Office after its establishment, the Court of Auditors, the European Anti-Fraud Office or the internal auditor, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body; ii.non final judgments or non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics; iii.facts referred to in decisions of entities and persons being entrusted with EU budget implementation tasks; iv.information transmitted by Member States implementing Union Funds; v.decisions of the Commission relating to the infringement of Union competition law or of a national competent authority relating to the infringement of Union or national competition law; or vi.decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.	<input type="checkbox"/>	<input type="checkbox"/>

**II – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS WITH POWER OF REPRESENTATION, DECISION-MAKING OR CONTROL OVER THE LEGAL PERSON AND BENEFICIAL OWNERS.**

**Not applicable to natural persons, Member States and local authorities**

(2) declares that a natural or legal person who is a member of the administrative, management or supervisory body of the above-mentioned legal person, or who has powers of representation, decision or control with regard to the above-mentioned legal person (this covers e.g. company directors, members of management or supervisory bodies, and cases where one natural or legal person holds a majority of shares) or a beneficial owner of the person (as referred to in point 6 of article 3 of Directive (EU) N°2015/849) is in one of the following situations:	YES	NO	N/A
Situation (c) above (grave professional misconduct)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (d) above (fraud, corruption or other criminal offence)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (e) above (significant deficiencies in performance of a contract )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (f) above (irregularity)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Situation (g) above (creation of an entity with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (h) above (person created with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### III – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS ASSUMING UNLIMITED LIABILITY FOR THE DEBTS OF THE [LEGAL] PERSON

(3) declares that a natural or legal person that assumes unlimited liability for the debts of the above-mentioned legal person is in one of the following situations <b><u>[If yes, please indicate in annex to this declaration which situation and the name(s) of the concerned person(s) with a brief explanation]:</u></b>	YES	NO	N/A
Situation (a) above (bankruptcy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (b) above (breach in payment of taxes or social security contributions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### IV – GROUNDS FOR REJECTION FROM THIS PROCEDURE

(4) declares that the [above-mentioned] [[the] [each] ] person:	YES	NO	N/A
Was previously involved in the preparation of the procurement documents used in this award procedure, where this entailed a breach of the principle of equality of treatment including distortion of competition that cannot be remedied otherwise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### V – REMEDIAL MEASURES

If the person declares one of the situations of exclusion listed above, it must indicate measures it has taken to remedy the exclusion situation, thus demonstrating its reliability. This may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines or of any taxes or social security contributions. The relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to this declaration. This does not apply for situations referred in point (d) of this declaration.

### VI – EVIDENCE UPON REQUEST

Upon request and within the time limit set by the contracting authority, the person must provide information on the natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control, including legal and natural persons within the ownership and control structure and beneficial owners. It must also provide the following evidence concerning the person itself and the natural or legal persons on whose capacity the person intends to rely, or the subcontractor, and concerning the natural or legal persons which assume unlimited liability for the debts of the person:

For situations described in (a), (c), (d) (f), (g) and (h) production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the person showing that those requirements are satisfied.

For the situation described in point ( b), production of recent certificates issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the person is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The person is not required to submit the evidence if it has already been submitted for another award procedure of the same contracting authority<sup>2</sup>. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

## VII – SELECTION CRITERIA

(5) declares that the above-mentioned person complies with the selection criteria applicable to it individually as provided in the tender documents:	YES	NO	N/A
(a) It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section 16 of the contract notice;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable economic and financial criteria indicated in section 16 of the contract notice;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) It fulfills the applicable technical and professional criteria indicated in section 16 of the contract notice.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(6) the above-mentioned person is the <b>sole tenderer</b> or the <b>leader in case of a consortium</b> , declares that:	YES	NO	N/A
(d) the tenderer, including all members of the group in case of consortium and including subcontractors if applicable, complies with all the selection criteria for which a consolidated assessment will be made as provided in the tender documents.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<sup>2</sup> The same institution or agency.

**VIII – EVIDENCE FOR SELECTION**

The signatory declares that the above-mentioned person is able to provide the necessary supporting documents listed in the relevant sections of the tender documents and which are not available electronically upon request and without delay.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure of the same contracting authority<sup>3</sup>. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

***The above-mentioned person may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial penalty) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.***

Full name

Date

Signature

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<sup>3</sup> The same institution or agency.