

Contract No. ▶	9153/2024/13
Project ID / Sector ▶	3485
Council of Europe contact point ▶	Olena Demchenko, Senior Project Officer Email: Olena.Demchenko@coe.int



ACT OF ENGAGEMENT (Competitive bidding procedure / One-off contract)

This Act of Engagement lays down the terms and conditions of the contract between the Provider, as described below, and the Council of Europe¹ for the provision of consultancy services for qualitative sociological research on Ukrainian Radio consumption and user perception.

The signature of this Act of Engagement by the Provider alone shall not constitute or imply any sort of contractual commitment on the part of the Council of Europe. This Act shall become contractually binding only upon signature by a Council of Europe authorised staff member (see Section B).

Providers shall:

1. Fill in the below sections **Contact details** and **Bank details**. Ensure that the "Name" of the Provider and the "Account holder" are the same.
2. Fill in the column "Fees" of the table of fees (see Section A);
3. Sign the Act of Engagement (see Section B) and send a scanned copy to the Council, accompanied by all other supporting documents (see Section F of the Tender File).

Provider information	Legal personality ² ▶	<input type="checkbox"/> Legal person	<input type="checkbox"/> Consortium
	Name and address ³ ▶		
	Consortium's coordinator (for consortia only) ⁴ ▶		
	Representative (for legal persons only) ▶		
	Contact person ▶		
	VAT n° (if any) ▶		
	Country and registration n° (if any) ▶		
	Email (Contact person) ▶		
	Phone number (Contact person) ▶		

¹ Council of Europe headquarters: Avenue de l'Europe, F-67075 Strasbourg Cedex, France

² The Council of Europe reserves the right to request documentary evidence.

³ In case of the bidder being a consortium, please list all consortium members.

⁴ In case of the bidder being a consortium, this field – as well as all remaining fields in this table – must include information concerning the coordinator only.

Bank details	Account holder ⁵ ▶		
	IBAN n° (if available) ▶		Full bank account n° (for non-IBAN countries only) ▶
	Bank name and Branch ▶		BIC/SWIFT Code ▶
	Bank Address ▶		Account currency ⁶ ▶

⁵ The name of the provider and the name of the account holder must coincide. In case of the bidder being a consortium, the name of the consortium's coordinator and the name of the account holder must coincide.

⁶ The bidder ensures that the indicated bank account can receive payments in the currency of the contract.

A. Terms of reference / Table of fees

The Council of Europe is currently implementing the Project "Safeguarding Freedom of Expression and Freedom of Media in Ukraine" (hereinafter "the Project") under the Action Plan for Ukraine "Resilience, Recovery and Reconstruction" (2023-2026). Within this co-operation framework, the Council of Europe intends to directly address the consequences of the armed aggression in Ukraine by facilitating specific actions of key public service institutions in the country.

Through its previous media projects implemented in Ukraine, the Council of Europe has supported the formation of a public broadcaster at various stages of its development. On 19 January 2017, the Public Broadcasting Company of Ukraine (hereinafter, also "Suspilne" or "stakeholder") was officially registered. Since then, it has experienced organisational and structural transformations to ensure that its services are aligned with the needs of the Ukrainian society, as well as relevant European standards and good practices. The Project is supporting Suspilne in its further transformation.

In light of the 100 Anniversary of Ukrainian Radio, the Council of Europe supports the further enhancement of Ukrainian Radio and its talk stations by assisting Suspilne in carrying out qualitative research on radio content consumption and user perception.

Background information on the objectives of the research

Ukrainian Radio stands as a cornerstone of Suspilne's media offerings. Celebrating its 100th anniversary this year, Ukrainian Radio is embarking on a series of initiatives aimed at enhancing the quality of its services and improving the user experience for its audience. To achieve these goals, Suspilne plans to conduct a comprehensive analysis of Ukrainian Radio's content, audience perception, and its alignment with the company's strategic objectives and mission.

As a longstanding entity in the Ukrainian radio market, Ukrainian Radio has established a significant reputation. However, evolving consumer lifestyles necessitate continuous development and enhancement. This comprehensive study will focus on the content's quality, innovation in style and presentation, and the personal branding of its presenters. The analysis will serve dual purposes: to refine the content and engage new audiences, while also identifying the current audience and making changes that will retain the loyal, existing listeners.

Given the importance of these evaluations, the study aims to reveal the current performance levels of Ukrainian Radio and suggest potential improvements. This effort is particularly crucial as Ukrainian Radio is widely represented across Ukraine, with higher consumption rates among residents of provinces, small towns, and villages compared to those in large cities. The majority of Ukrainian Radio's audience consists of individuals aged 55 and older, a demographic trend influenced by the unique lifestyle in smaller communities, where radio remains a popular source of information, especially for news.

By undertaking this comprehensive research, Suspilne aims to better understand its audience and continue to meet their needs effectively, ensuring the sustained growth and relevance of Ukrainian Radio in the rapidly changing media landscape.

Suspilne carried out similar research in the past. Its results are available at:

- 1) <https://corp.suspilne.media/newsdetails/6537>
- 2) <https://corp.suspilne.media/newsdetails/6538>

When carrying out the research, the Provider shall test the below hypotheses:

1. There is a specific niche for talk radio stations that influences a distinct model of radio consumption.
2. The primary audience of Ukrainian Radio consists of individuals from older age groups. This demographic shift is attributed to the traditional broadcasting approach, which lacks modern appeal to younger audiences and necessitates an update.
3. The rising trend of consuming media content through digital platforms, such as YouTube, has overshadowed traditional sources like radio. Consequently, Ukrainian Radio must compete not only with other radio stations but also with various audio platforms.

Target Audience:

The Provider is responsible for the recruitment of the audience. The Provider should strictly follow the requirements and seek approval of the eligibility of the audience recruited for the research from Suspilne and the Council of Europe Secretariat.

- Audience of talk radio stations: Ukrainian Radio, Radio NV, Hromadske, local radio stations.
 - 50% Regular listeners: those who listen to the radio at least once a week.
 - 50% Irregular listeners: those who listen to the radio at least once a month, but more seldom than once a week.
- Men and women aged 45-65 (divided by age groups 45-55, 56-65, balanced gender composition within focus groups).
- Current residence in Kyiv, Odesa, Lviv and Dnipro. A participant is considered to be a current resident of a particular city in case s/he has been living in this city for at least six months; this information is ought to be checked at the screening stage.

The Provider should ensure sufficient representation of people from different backgrounds. This includes but is not limited by:

➤ Diversity of profiles:

- People engaged in the working activities (employees, owners of businesses, self-employed, seasonal workers, others) representing diverse professions and sectors.
- At least certain number of people, which are temporarily or permanently non-engaged in any paid labour activities: unemployed, temporarily, or permanently incapacitated, retired, others.
- Sufficient representation of people from different genders; engagement of people from different minority and vulnerable groups is encouraged (national minorities, displaced people, people with disabilities, war veterans, etc.).

➤ Different groups of radio content consumers:

- Weekly regular audience 50% and irregular monthly audience 50%.
- Radio content consumers listening to the radio offline and online (YouTube or mobile application).

Method to be applied for data collection: small online focus groups of six participants. At least one extra participant should be recruited for each group for the replacement in case of not show-ups with a short notice.

Total number of respondents covered (as per the technical proposal): within the range of a minimum of 48 respondents for 8 groups and a maximum of 72 respondents for 12 groups.

- The technical specifications should indicate the number of response that the Provider commit to cover and the proposed design of the groups disaggregated by gender, age, city, etc.

Prices

Prices indicated below are **final and not subject to review**, throughout the duration of the contract. It shall cover all costs related to the execution of the deliverables. **Prices are indicated in Euros with VAT indicated separately.**

Tenders proposing a fee above the exclusion level will be entirely and automatically excluded from the tender procedure. For the VAT regime to be mentioned on the invoice, please refer to **Section B** below.

Non-disclosure requirements (NDA): The results of the research must not be made public for five years from the moment the services are delivered and accepted by the Council of Europe.

Provisions on safety and security: *By signing this agreement, the Provider acknowledges that individuals involved in the implementation of the current contract are exposed to an increased risk of death and injury due to the ongoing war against Ukraine. The Provider declares its readiness to carry out the implementation of the contract independently from the Council of Europe at its own initiative and risk. The Provider confirms that it will conduct systematic security assessments before undertaking any activities related to the current contract. It acknowledges that the Council of Europe assumes no liability for any death, injury, or damage related to the implementation of this contract.*

The Provider shall indicate its proposed deadlines for deliverables and fees in the boxes below.

Deliverable ▼	Deadline for deliverables	Fees, EUR ▼	Exclusion level ▼
<p><u>Develop a qualitative sociological research of radio consumption specifics and perception of Ukrainian Radio and talk radio stations.</u></p> <p>The final deadline for the delivery of the qualitative sociological research is 20 September 2024.</p>	<p>20 September 2024</p>		
<p>Deliverable 1: Development of the research methodology</p> <p>1.1. Participation in the kick-off meeting with Suspilne’s team (online) and the Council of Europe Secretariat to clarify and obtain necessary data for the development of the methodology.</p> <p>1.2. Development of the draft methodology for the research, including a draft screener for the pre-selection of the focal group respondents and a guide for the focus group facilitation for up to 2 hours that should include fragments of the radio broadcasts provided by Suspilne. The draft methodology should be shared with Suspilne and the Council of Europe Secretariat for comments. Based on the comments received, the methodology shall be finalised and submitted for its final approval.</p>			<p>EUR 12 500 without VAT</p>
<p>Deliverable 2: Collection of the research data</p> <p>2.1 Recruitment of respondents for the focus groups. 2.2 Carrying out online focus group discussions.</p> <p>Specific consideration:</p> <ul style="list-style-type: none"> • Ensure that the recruited respondents of each focal group have diverse backgrounds and profiles, as per the above specifications (see “Target Audience”). • Ensure the online streaming and recording of the focus group discussions with access to Suspilne’s representatives. • Ensure possibility for representatives of Suspilne to participate and/or follow the group discussions and ask additional questions if needed. • Ensure that the sufficient number of respondents take part in the group 			

<p>discussions, with a reserve list in case of drop-offs.</p> <ul style="list-style-type: none"> • Ensure compliance with the national data protection legislation and the Council of Europe data protection rules, non-discrimination, and ethical standards. Obtain consent for data processing of all people engaged in the recruitment and research when relevant personal data is obtained for the purpose of research. 			
<p>Deliverable 3. Develop an analytical report on the outcomes of the research:</p> <p>1.1 Develop a draft report based on the methodology approved and data obtained under Sub-Deliverables 1 and 2. The draft report and attachments should be submitted to Suspiine and the Council of Europe for comments and inputs.</p> <p>1.2 Based on the feedback provided, develop the final version of the report and its attachments in Ukrainian, which should be accompanied by a summary report in English and Ukrainian (at least 1 page).</p> <p>The research should be based on the data obtained during online focus group discussions:</p> <ul style="list-style-type: none"> • Cover the overall description of the specifics of radio consumption: situations, time, needs, devices, locations, listening in the car, inclusion in listening, the place of radio in the media menu, and the role of talk radio stations. • Describe the competitive landscape of radio in relation to other media and audio platforms: what alternative forms do people listen to, why do they prefer this over radio, and what are the characteristics of radio content consumption online (YouTube, smartphone applications, websites, OTT). • Assess the perception of talk radio stations, particularly Ukrainian Radio, including their differentiation, strengths, weaknesses, drivers and barriers of audience choice and loyalty, and factors contributing to the formation of listening habits. • Describe the perception of Ukrainian Radio in comparison to other competing talk stations. • Pay particular attention to the attitudes of individuals who are aware of Ukrainian Radio, but listen to Radio NV, towards Ukrainian Radio. • Determine the preferences of listeners in radio content (programs, genres, directions and topics within programs, etc.). • Determine how different presenters are perceived (based on memories, samples, and on-air presence): style, dynamics speed of speech, delivery of material, timbre, etc., as well as the relevance of the leading programs 			

and the radio station.

- **Test the hypotheses regarding the renewed style of Ukrainian Radio:** assess its current suitability and perception, and gauge whether the loyal audience finds the new image appropriate.
- **Evaluate the perception of on-air advertising on Ukrainian Radio,** including its frequency, content, and its impact on the overall perception of the radio station.
- **Analyse the elements of broadcasting:** identify what defines and distinguishes Ukrainian Radio, essential components of its broadcast design (e.g., modern vs. traditional), and determine listeners' preferences for potential changes and their desired specifics.

Technical requirements for the sub-deliverable:

- *Analytical report should be presented in *.pptx format, including conclusions and recommendations.*
- *A one-page summary report (up to 2000 characters without spaces) in Ukrainian and English should be compiled. It should cover a brief overview of the methodology, the research and its outcomes, as well as key recommendations. The documents should be in *.doc format.*

The final report shall include as attachments:

- *Final methodology (Deliverable 1);*
- *Screener of respondents in a table (Deliverable 2);*
- *Transcripts of focus group discussions in *.doc format (Deliverable 2);*
- *Online participants list (i.e. Zoom meeting attendance report) (Deliverable 2);*
- *Video recordings of all focus groups (Deliverable 2);*

TOTAL ►

VAT ►

TOTAL with VAT ►

B. Declaration of Agreement and Signature

- I, the undersigned, acting on my own behalf or as a representative of the Provider indicated below, hereby:
- Declare having the authority to represent the Provider;
 - Declare that the information provided to the Council under this procedure is complete, correct and truthful.
 - Acknowledge, in signing this document, that I have been notified that if any of the statements made or information provided prove to be false, the Council reserves the right to exclude the tender concerned from the procedure or to terminate any existing contractual relations related to the latter;
 - Express consent to any audit or verification that the Council may initiate by any means on the information provided under this procedure;
 - Declare that neither I, nor the Provider I represent, are in any of the situations listed in the exclusion criteria as reproduced in the Tender File;
 - Declare that neither I, nor the Provider I represent, are in a situation of a conflict of interests or a potential conflict of interest in relation to this procedure. I have been notified and understand that a conflict of interests may arise, in particular, from economic interests, political or national affinities, emotional or family ties or any other type of shared relationship or interest;
 - Declare that I am not a retired Council of Europe staff member or a Council of Europe staff member having benefitted from an early departure scheme;
 - Declare that I am currently not employed by the Council of Europe and was not employed by the Council of Europe on the date of the launch of the procurement procedure;
 - Declare that, in the previous three years, neither I, nor the Provider I represent, have failed to fulfil the contractual obligations in the performance of a contract concluded with the Council of Europe leading to a total or partial refusal of payment and/or termination of the contract by the Council of Europe;
 - Undertake to update the Council with significant information changes within a reasonable time. Significant information changes include, but are not limited to change of legal status, ownership, name and address, loss of licence of registration, filing bankruptcy, suspension or debarment by any national or local governmental agency or assimilated;
 - Accept without any derogation all the terms of the Legal Conditions as reproduced in the present document and understand that its signature **shall constitute signature of the contract** with the Council subject to the selection of the tender by the Council and the signature of this Act by a representative of the Council.

Fill in and sign this part and send a scanned copy of the document to the Council, together with the other supporting documents (See Tender File Section F).

For the Provider		For the Council of Europe On behalf of the Secretary General of the Council of Europe		
Signature	Signatory ⁷ (Name, Function and Entity) ▶		Signatory (Name, Function and Entity) ▶	
	Provider ▶		% of advance payment accepted ▶	
	Place of signature ▶	In	Place of signature ▶	In
	Date of signature ▶	___ / ___ / ____	Date of signature ▶	___ / ___ / ____
	Signature ⁸ ▶		Signature ▶	
		PO Number ▶		
		FIMS Number ▶		

⁷ In case of the bidder being a consortium, indicate one signatory for each consortium member.

⁸ In case of the bidder being a consortium, the field "Signature" must include the signatures of all consortium members.

INVOICING (This part is reserved for the Council of Europe)	
Invoicing Address ▶	Council of Europe, Avenue de l'Europe, F – 67075 Strasbourg Cedex
<input type="checkbox"/>	The invoice shall indicate prices net fixed amount .
<input type="checkbox"/>	The invoice shall be established excluding tax .
<input type="checkbox"/>	The invoice shall be established excluding tax , the following shall appear on the pro-forma invoice and on the final invoice: According to Article 2 b) of Directive 2001/115/EC: "Intra-Community service/sale to an exempted organisation: Articles 143 and 151 of Directive 2006/112/EC."
<input type="checkbox"/>	The Council of Europe shall provide a VAT exemption certificate to the service provider/supplier with each order. The exemption certificate should be retained by the Provider/Supplier and presented to the relevant tax authorities to justify tax-free invoicing. In case the Council of Europe is not in a position to provide the said certificate, the invoice shall be established including all taxes.
	<p>The invoice shall <i>be established including all taxes</i>. The invoice shall indicate the total amount without taxes, the rate and the amount of the VAT and the total amount 'including all taxes'.</p> <p>For services physically carried out in France, providers who do not have a French VAT number must register with the French Fiscal Authorities: Directorate for non-resident tax / sie.entreprises-etrangeres@dgfip.finances.gouv.fr / 10, rue du Centre / 93465 Noisy-le-Grand Cedex / + 33 (0)1 57 33 85 00;</p> <p><input type="checkbox"/> Or, depending on the provider,</p> <p>Providers without a French VAT number are required to register for VAT purposes at the VAT One Stop Shop (VAT OSS) of their choice. The invoice shall indicate the total amount without taxes, the rate and the amount of the VAT and the total amount 'including all taxes'. The invoice shall also stipulate the following statement: "French VAT collected by the Provider and paid to the One-Stop shop in [Address/Country] under the OSS identification number [No. XX]".</p>
Comments	
The Provider shall invoice the Council as indicated above. For any question, please contact the contact point of this contract. For aspects other than VAT, the invoice shall conform to the applicable legislation. Unless agreed otherwise between the parties, the invoice shall be in the currency specified in the table of fees (See Section A).	

C. Legal Conditions

ARTICLE 1 – GENERAL PROVISIONS

- 1.1 The Provider undertakes, on the conditions and in the manner laid down by common agreement hereafter excluding any accessory verbal agreement, to provide the list of Deliverables reproduced in the Terms of reference (see Section A above) related to the present contract and in the tender submitted by the Provider.
- 1.2 The present contract is composed, by order of precedence, of:
 - a) the Act of Engagement, in its entirety (cover page, Sections A and B and the present Legal Conditions);
 - b) the Terms of reference; and
 - c) the tender submitted by the provider.
- 1.3 Any general purchasing terms and conditions of the Provider shall never prevail over these legal conditions. Any provision proffered by the Provider in its documents (general conditions or correspondence) conflicting with the clauses of these legal conditions shall be deemed void, except for any clauses which may be more favourable to the Council.
- 1.4 For the purposes of this Contract:
 - a) "Contract" shall refer to the documents described in 1.2, above;
 - b) "Council" shall mean the Council of Europe;
 - c) "Deliverables" shall mean the services or goods as described in the Terms of reference;
 - d) "Parties" shall mean the Council and the Provider;
 - e) "Provider" shall mean the legal or physical person selected by the Council for the provision of the Deliverables. This person may equally be referred to as the "Service Provider" or the "Consultant".

ARTICLE 2 – DURATION

The contract is concluded until complete execution of the obligations of the parties and takes effect as from the date of its signature by both parties. The services shall be executed in accordance with the timeframe indicated in the Terms of reference or, by default, as agreed in any prior correspondence.

ARTICLE 3 – OBLIGATIONS OF THE PROVIDER

3.1 General obligations

- 3.2.1. The Provider bears sole responsibility for all the decisions made and the human, technical, logistic and material resources used in the context of the Contract in order to provide the Deliverables, with due respect for the Council of Europe's needs and constraints, as contractually defined.
- 3.2.2. The Provider recognises that it is subject to a general obligation to provide advice, including, but not limited to, an obligation to provide any relevant information or recommendations to the Council. In this context, the Provider shall supply to the Council all the advice, warnings and recommendations necessary particularly in terms of quality of Deliverables, security and compliance with professional standards. The Provider also undertakes to inform the Council as soon as it becomes aware, during the execution of the Contract, of any initiatives and/or adopted laws and regulations, policies, strategies or action plans or any other development related to the object of the Contract.

3.2 Intellectual services

- 3.2.3. The provisions of Articles 3.2.2 to 3.2.10 shall apply insofar as the contract concerns the provision of intellectual services.
- 3.2.4. Unless agreed otherwise by the Parties, any written documents prepared by the Provider under the contract shall be written in English and produced on a word processing file. In case the Parties agree that a written document shall be prepared in a language other than English or French, a summary in English or French shall be included in the said document.
- 3.2.5. Unless agreed otherwise by the Parties, all written documents of more than 1,500 words shall be preceded or accompanied by a text summarising the subject and main conclusions and shall not, unless specifically required, exceed 5,000 words.
- 3.2.6. The Provider guarantees that the Deliverables conform to the highest academic standards.
- 3.2.7. The Provider cedes irrevocably and exclusively to the Council throughout the entire world and for the entire period of copyright protection, all rights on the Deliverable(s) produced as a result of the execution of the present contract. Such rights shall include in particular the right to use, reproduce, represent, publish, adapt, translate and distribute – or to have used, reproduced, represented, published, adapted, translated and distributed - in any country, in any language, in any form and on any kind of support, including on a CD-ROM or the Internet, the said Deliverables, or any part thereof.
- 3.2.8. The Council reserves the right to exercise the above-mentioned rights for any purpose falling within its activities.
- 3.2.9. The Provider guarantees that use by the Council of the Deliverable(s) produced as a result of the execution of the present contract will not infringe the rights of third parties. However, should the Council incur liability as the result of any such infringement; the Provider will compensate it in full for any damage it may suffer in consequence.
- 3.2.10. Notwithstanding the provision in Article 3.2.5 above, the Council may, on prior application by the Provider, authorise the Provider to use the Deliverable(s) referred to above. When giving the Provider such authority, the Council will inform the Provider of any conditions to which such use may be subject.
- 3.2.11. Any intellectual property rights of the Provider over methods, knowledge and information which are in existence at the date of the conclusion of the Contract and which are comprised in or necessary for or arising from the performance of the Contract shall remain the property of the Provider. However, in consideration of the fees payable pursuant to the Contract the Provider hereby grants the Council a non-exclusive and free licence for the entire world and for the entire period of protection by the applicable intellectual property rights law for the use of such methods, knowledge and information insofar as they are an integral part of the Deliverable(s).
- 3.2.12. If the Deliverable(s) result(s) in the provision of a training session, and provided the training materials are not the property of the Council, the Provider shall grant the participants in the training a non-exclusive licence for the entire world and for the entire period of protection by the applicable intellectual property rights law for their own professional use of those training materials.

3.3 Health and social insurance of the Provider or its employees

The Provider shall undertake all necessary measures to arrange for health and social insurance during the entire contract. The Provider acknowledges and accepts in this regard that the Council shall not assume any responsibility for any health and social risks concerning illness, maternity or accident which might occur during the performance of work under the contract.

3.4 Fiscal obligations

The Provider undertakes to inform the Council about any change of its status with regard to VAT, to observe all applicable rules and to comply with its fiscal obligations in:

- a) submitting a request for payment, or an invoice, to the Council in conformity with the applicable legislation;
- b) declaring all fees received from the Council for tax purposes as required in his/her/its country of fiscal residence.

3.5 Loyalty and confidentiality

3.5.1. In the performance of the present contract, the Provider will not seek or accept instructions from any government or any authority external to the Council. The Provider undertakes to comply with the Council's directives for the completion of the Deliverables and to refrain from any word or act that may be construed as committing the Council.

3.5.2. The Provider shall observe the utmost discretion in all matters concerning the contract, and particularly any matters or data that have been or are to be recorded that come to the Provider's attention in the performance of the contract. Unless obliged to do so under the terms of the contract, or expressly authorised to do so by the Secretary General of the Council, the Provider shall refrain at all times from communicating to any person, legal entity, government or authority external to the Council any information which has not been made public and which has come to the Provider's notice as a result of dealings with the Council. Nor shall the Provider seek to gain private benefit from such information. Neither the expiry of the contract nor its termination by the Council shall lift these obligations.

3.6 Disclosure of the terms of the contract

3.6.1. The Provider is informed and gives an authorisation of disclosure of all relevant terms of the contract, including identity and price, for the purposes of internal and external audit and to the Committee of Ministers and to the Parliamentary Assembly of the Council with a view to these latter discharging their statutory functions, as well as for the purpose of meeting the publication and transparency requirements of the Council of Europe or its donors. The Provider authorises the publication, in any form and medium, including the websites of the Council of Europe or its donors, of the title of the contract/projects, the nature and purpose of the contract/projects, name and locality of the Provider and amount of the contract/project.

3.6.2. Whenever appropriate, specific confidentiality measures shall be taken by the Council to preserve the vital interests of the Provider.

3.7 Use of the Council of Europe's name

The Provider shall not use the Council's name, flag or logo without prior authorisation of the Council.

3.8 Data Protection

3.8.1. Without prejudice to the other provisions of this contract, the Parties undertake, in the execution of this contract, to comply at all times with the legislation applicable to each of them concerning the processing of personal data.

3.8.2. Where the Provider, pursuant to its obligations under this contract, processes personal data on behalf of the Council, it shall:

- i. Process personal data only in accordance with written instructions from the Council;
- ii. Process personal data only to the extent and in such manner as is necessary for the execution of the contract, or as otherwise notified by the Council;
- iii. Implement appropriate technological measures to protect personal data against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction, or damage while having regard to the nature of the personal data which is to be protected;
- iv. Take reasonable steps to ensure the reliability of the Provider's employees having access to the personal data and to ensure that they have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality and thus agree to comply with the data protection obligations set out in this contract;
- v. Obtain written consent from the Council prior to any transfer of possession or responsibility for the personal data to any subcontractors. If the Council chooses to authorise subcontracting, the same data protection obligations as set out in this contract shall be imposed on the subcontractor by way of a contract. The Provider shall remain fully liable to the Council for the performance of that subcontractor's obligations.
- vi. Notify the Council within five working days if it receives:
 - a. a request from a data subject to have access (including rectification, deletion and objection) to that person's personal data; or
 - b. a complaint or request related to the Council's obligations to comply with the data protection requirements.
- vii. Provide the Council with full assistance in relation to any such request or complaint and assist the Council to fulfil its obligation to respond to the requests for rectification, deletion and objection, to provide information on data processing to data subjects and to notify personal data breaches;
- viii. Allow for and contribute to checks and audits, including inspections, conducted or mandated by the Council or by any authorised third auditing person. The Provider shall immediately inform the Council of any audit not conducted or mandated by the Council;
- ix. Not process nor transfer personal data outside the jurisdiction of a Council of Europe Member State without the prior authorisation of the Council and provided that an adequate level of protection is guaranteed by law or by ad hoc or approved standardised safeguards (such as binding corporate rules) in the jurisdiction of the recipient;
- x. Make available to the Council all information necessary to demonstrate compliance with the obligations under the contract in connection with the processing of personal data and the rights of data subjects;
- xi. Upon the Council's request, delete or return to the Council all personal data and any existing copies, unless the applicable law requires storage of the personal data.

3.9 Parallel Activities

Where the Provider is a natural person who is employed in parallel to this Contract, they hereby confirm that they:

- a) have been granted approval from their employer to perform paid services for the Council under this Contract, and/or

b) have been granted leave during the performance of their obligations under this Contract.

3.10 Other obligations

- 3.10.1. In the performance of the present contract, the Provider undertakes to comply with the applicable principles, rules and values of the Council, including – but not limited to – those laid down in the [Policy on Respect and Dignity in the Council of Europe](#) and the [Code of Conduct](#).
- 3.10.2. The Staff Regulations and the rules concerning temporary staff members shall not apply to the Provider.
- 3.10.3. Nothing in this contract may be construed as conferring on the Provider the capacity of a Council of Europe staff member or employee.
- 3.10.4. If the performance of the present contract requires access to the Council of Europe's premises or information system by the Provider's employees, the Service Provider undertakes to carry out a background check on the employees assigned to the Council of Europe in order to prevent and control risks to the security of the Council of Europe's staff, property and information. The Provider undertakes to provide only employees whose background does not demonstrate incompatibility with the performance of duties within the Council of Europe.

ARTICLE 4 – FEES, EXPENSES AND MODE OF PAYMENT

4.1 Fees

- 4.1.1. In return for the fulfilment by the Provider of its obligations under the contract, the Council undertakes to pay the Provider the fees as indicated in their offer, in the currency specified in the Table of fees.
- 4.1.2. Amounts are final and not subject to review.

4.2 VAT

- 4.2.1. Should the Provider not be subject to VAT, the amount invoiced shall be net fixed amount. Should the Provider be subject to VAT, the amount shall be invoiced as indicated in Articles 4.2.2 to 4.2.4.
- 4.2.2. Should the deliverables be taxable in France, the amount invoiced shall be VAT inclusive. For services physically carried out in France, providers who do not have a French VAT number must register with the French Fiscal Authorities: Directorate for non-resident tax / sie.entreprises-etrangeres@dgfip.finances.gouv.fr / 10, rue du Centre / 93465 Noisy-le-Grand Cedex / + 33 (0)1 57 33 85 00; or, depending on the provider, Providers without a French VAT number are required to register for VAT purposes at the VAT One Stop Shop (VAT OSS) of their choice. The invoice shall indicate the total amount without taxes, the rate and the amount of the VAT and the total amount 'including all taxes'. The invoice shall also stipulate the following statement: "French VAT collected by the Provider and paid to the One-Stop shop in [Address/Country] under the OSS identification number [No. XX]".
- 4.2.3. Should the deliverables be taxable in another EU country, and unless otherwise agreed between the Parties, the Council will provide the Provider with an exemption certificate prior to the signature of the contract. The exemption certificate sent by the Council of Europe should be retained by the Provider and presented to the relevant tax authorities to justify tax-free invoicing. In accordance with Article 2 b) of Council Directive 2001/115/EC, the following should be stated in the invoice: "*Intra-Community sale/service to an exempted organisation: Articles 143 and 151 of Council Directive 2006/112/EC*" and should indicate the final total amount excluding VAT. In case the CoE will not be in a position to provide the said certificate, the Council will pay the invoice with VAT included.
- 4.2.4. Should the deliverables be taxable in a non-EU country, the amount invoiced will not include VAT if the local (national) legislation allows for it, or if the Council of Europe enjoys tax exemption through other means in the country concerned. Otherwise, it shall include VAT.

4.3 Invoicing and payment

- 4.3.1. Upon acceptance of the deliverable[s] by the Council, the Provider shall submit an invoice or a request for payment in triplicate and in the currency specified in the Table of fees, in conformity with the applicable legislation.
- 4.3.2. Before accepting the Deliverable(s), the Council reserves the right to ask the Provider to submit any other document or information that may serve the purpose of establishing that the Contract has been duly executed.
- 4.3.3. In the case of event organisation, the Provider shall in any case submit any document that proves that the event took place, including but not limited to an attendance sheet broken down into half days specifying the location, date(s) and time(s) of the event(s) or activity(ies), to be individually signed by each participant and the Provider.
- 4.3.4. The payment for the Deliverables to be paid by the Council shall be made within 60 calendar days of submission of the invoice described in Article 4.3.1, subject to the submission of the Deliverable(s) described in the Terms of reference and its/their acceptance by the Council.
- 4.3.5. In cases where an advance payment is foreseen, it shall be paid within 60 calendar days upon signature of the contract.

4.4 Other expenses

- 4.4.1. In the event of the Provider being required to travel for the purposes of the contract, and provided the Terms of reference do not stipulate that the fees already include travel and subsistence expenses, the Council undertakes, subject to its prior agreement, to reimburse travel and subsistence allowances in compliance with the Council's applicable Revised rules concerning the reimbursement of travel and subsistence expenses to government experts and other persons travelling at the charge of Council of Europe budgets.⁹
- 4.4.2. Travel expenses referred to under 4.4.1 will be reimbursed on the basis of the rail fare (first class) or air fare (tourist class) upon presentation of an invoice on the letterhead of the relevant vouchers. Subsistence expenses (including travel expenses within the locality visited) will be reimbursed at the applicable daily rate.
- 4.4.3. In the event of the Provider being required to travel for the purposes of the contract, the duration of the Provider's travel and stays will be covered by an insurance policy with the insurers AIG EUROPE (Policy No. 9.502.001). A telephone helpline is available in case of emergency +32 2 739 9991 (EN) or +32 2 739 9990 (FR). The said insurance will cover specific risks related to travel and stay of the Provider (including medical costs related to unforeseen illness or accident,

⁹ CM/Del/Dec(2010)1089/11.3 appendix 9 <https://rm.coe.int/rules-reimbursements-experts/1680a722b0>

repatriation, death, cancellation of journey or flight, theft or loss of personal possessions). The insurance policy does not cover persons over 80 years of age.

ARTICLE 5 - BREACH OF CONTRACT

- 5.1. In the event that:
- a) the Provider does not satisfy the conditions laid down in this contract or those resulting from any modifications duly accepted in writing by both parties, in accordance with the provisions of Article 6 below; or
 - b) the Deliverables provided as referred to under Article 1.1 do not reach a satisfactory level; or
 - c) the Provider is in any of the situations listed in Article 11.2.
- the Council may consider there to have been a breach of contract and may consequently refuse to pay to the Provider the amounts referred to in Article 4.1 and Article 4.4 above.
- 5.2. In the cases described in paragraph 5.1 above, the Council reserves further, at any moment and further to prior notification to the Provider, the right to terminate the contract in all or in part. In case of termination, the Council shall pay only the amount corresponding to the deliverables actually and satisfactorily provided at the time of termination of the contract and shall request reimbursement of the sums already paid for Deliverables not provided. In case of partial termination, the obligations of the parties shall endure for all deliverables which are not subject of the notification of termination.
- 5.3. The outstanding sums shall be paid to the Council's bank account within 60 calendar days from the notification in writing by the Council to the Provider regarding the outstanding sums to be paid.

ARTICLE 6 - MODIFICATIONS

- 6.1. The provisions of this contract cannot be modified without the written agreement of both parties. This agreement may take the form of an exchange of emails provided it is done using the contact details specified in Article 8.
- 6.2. Any modification shall not affect elements of the contract which may distort the initial conditions of the tendering procedure or give rise to unequal treatment between the tenderers.
- 6.3. This contract may not be transferred, in full or in part, for money or free of charge, without the Council's prior authorisation in writing.
- 6.4. The Provider may not subcontract all or part of the Deliverables without the written authorisation of the Council. If authorised to subcontract by the Council, the Provider shall ensure compliance with all contractual conditions by all authorised subcontractors. The Provider shall remain fully liable to the Council for the performance of that subcontractor's obligations.

ARTICLE 7 - CASE OF FORCE MAJEURE

- 7.1. In the event of force majeure, the parties shall be released from the application of this contract without any financial compensation. Force majeure is defined as including the following: major weather problems, earthquake, strikes affecting air travel, attacks, a state of war, health risks or events that would require the Council or the Provider to cancel the contract.
- 7.2. In the event of such circumstances each party shall be required to notify the other party accordingly in writing, within a period of 7 calendar days.

ARTICLE 8 - COMMUNICATION BETWEEN THE PARTIES

- 8.1. The Contact point within the Council of Europe is indicated on the cover page of the Act of Engagement (see page 1 above).
- 8.2. The Provider can be reached through the means indicated in the Act of Engagement (see page 1 above).
- 8.3. Any communication is deemed to have been made when it is received by the receiving party, unless the Contract refers to the date when the communication was sent.
- 8.4. Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed in paragraphs 1 and 2 above. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed in paragraphs 1 and 2 above. In case of unsuccessful dispatch, the sending party shall not be held in breach of its obligation to send such communication within a specified deadline, provided the communication is dispatched by another means of communication without further delay.
- 8.5. Mail sent to the Council using the postal services is considered to have been received by the Council on the date on which it is registered by the department identified in paragraph 1 above.
- 8.6. Formal notifications made by registered mail with return receipt or equivalent, or by equivalent electronic means, shall be considered to have been received by the receiving party on the date of receipt indicated on the return receipt or equivalent.

ARTICLE 9 –ACCEPTANCE

The provision of Deliverables referred to in this contract shall be the subject of a written acceptance procedure. If acceptance is refused, the Council shall inform the Provider accordingly, giving reasons, and may set new modalities for the provision of the Deliverables. If acceptance is refused again, the Council may terminate the Contract in whole or in part without previous notice and without paying any financial compensation.

ARTICLE 10 – CONSORTIUM

- 10.1. The Providers have full responsibility for carrying out and complying with the terms of the contract.
- 10.2. The Providers are jointly and severally liable. If a Provider fails to implement its part of the contract, the other Providers become responsible for the carrying out of the Deliverables, unless the Council expressly relieves them of this obligation.
- 10.3. In case of breach of contract, where applicable, the Council will claim back the amounts paid but that were not due under the contract. The coordinator of the consortium is fully liable for repaying the debts of the consortium; even if it has not been the final recipient of those amounts.
- 10.4. The internal roles and responsibilities of the Providers are divided as follows:
- 10.4.1 The Providers must designate a coordinator.
 - 10.4.2 Each Provider must:

- (i) inform the coordinator immediately of any events or circumstances likely to affect significantly or delay the performance of the contract, change in legal status or technical, organisational or ownership situation, circumstances affecting the award of the contract or compliance with the requirements of the contract;
 - (ii) submit to the coordinator in good time:
 - any other documents or information required by the Council under the contract, unless the contract requires the Provider to submit this information directly;
 - any information requested by the coordinator in order to verify the state of performance of the Deliverables under the contract, the proper implementation of the contract and compliance with the other obligations under the contract.
 - (iii) give the other Providers access to any pre-existing industrial and intellectual property rights needed for the performance of the contract and compliance with the obligations under the Agreement.
- 10.4.3 The coordinator must:
- (i) monitor that the Deliverables are carried out timely and properly, in accordance with the terms of the contract;
 - (ii) act as the intermediary for all communications between the Providers and the Council (in particular, providing the Council with the information described in Article 10.4.2(ii) immediately), unless the agreed otherwise by the Parties;
 - (iii) request and review any documents or information required by the Council and verify their completeness and correctness before passing them on to the Council;
 - (iv) before starting performance of the contract, submit this list of pre-existing rights (Article 10.4.2(iii)) to the Council.
 - (v) submit the Deliverables to the Council in accordance with the timing and terms of the contract;
 - (vi) Payments shall be made by the Council to the coordinator. Payments to the coordinator shall discharge the Council from its payment obligation. The coordinator must ensure that the distribution of the payments between the Providers are made without unjustified delay.

The coordinator may not subcontract the above-mentioned tasks.

- 10.5. The Providers must have internal arrangements regarding their operation and co-ordination to ensure that the action is implemented properly. These internal arrangements must be set out in a written 'consortium agreement' between the beneficiaries, which may cover:
- internal organisation of the consortium;
 - distribution of the Council payment(s);
 - additional rules on rights and obligations related to pre-existing rights and results (including intellectual and industrial property rights), specifying the owner and persons that have a right of use;
 - settlement of internal disputes;
 - liability, indemnification and confidentiality arrangements between the Providers.

The consortium agreement must not contain any provision contrary to the contract.

ARTICLE 11 – CHANGES IN THE PROVIDER'S SITUATION OR STANDING

- 11.1. The Provider shall inform the Council without delay of any changes in their address or legal domicile or in the address or legal domicile of the person who may represent them.
- 11.2. The Provider shall also inform the Council without delay:
- a) if they are involved in a merger, takeover or change of ownership or there is a change in their legal status;
 - b) where the Provider is a consortium or similar entity, if there is a change in membership or partnership.
 - c) if they are sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering, terrorist financing, terrorist offences or offences linked to terrorist activities, child labour or trafficking in human beings;
 - d) if they are in a situation of bankruptcy, liquidation, termination of activity, insolvency or arrangement with creditors or any like situation arising from a procedure of the same kind, or are subject to a procedure of the same kind;
 - e) if they have received a judgment with *res judicata force*, finding an offence that affects their professional integrity or serious professional misconduct;
 - f) If they do not comply with their obligations as regards payment of social security contributions, taxes and dues, according to the statutory provisions of their country of legal domicile;
 - g) If they are or are likely to be in a situation of conflict of interests.

ARTICLE 12 – DISPUTES

- 12.1. Any dispute regarding this Contract shall - failing a friendly settlement between the Parties - be submitted to arbitration.
- 12.2. The Arbitration Board shall be composed of two arbitrators each selected by one of the parties, and of a presiding arbitrator, appointed by the other two arbitrators; in the event of no presiding arbitrator being appointed under the above conditions within a period of six months, the President of the Tribunal Judiciaire of Strasbourg shall make the appointment.
- 12.3. Alternatively, the parties may submit the dispute for decision to a single arbitrator selected by them by common agreement or, failing such agreement, by the President of the Tribunal Judiciaire of Strasbourg.
- 12.4. The Board referred to in paragraph 2 of this Article or, where appropriate, the arbitrator referred to in paragraph 3 of this Article, shall determine the procedure to be followed.
- 12.5. If the parties do not agree upon the law applicable the Board or, where appropriate, the arbitrator shall decide *ex aequo et bono* having regard to the general principles of law and to commercial usage.
- 12.6. The arbitral decision shall be binding upon the parties and there shall be no appeal from it.

ARTICLE 13 – ADDRESSES AND BANK DETAILS OF THE PARTIES

The bank details of the Provider are indicated in the Act of Engagement. The bank details of the Council of Europe are the following:

Bank address: F-67075 Strasbourg Cedex, France
 Bank name: Société Générale Strasbourg
 Code IBAN: FR76 30003 02360 001500 1718672
 SWIFT Code: SOGEFRPP

