



Contract No. ▶	BH8460-01-11/04/2019
Project ID / Sector ▶	REFORM OF THE ELECTORAL PRACTICE IN GEORGIA PMM ID – 200
Council of Europe contact point ▶	Mr Archil PASHALISHVILI Email: Archil.PASHALISHVILI.coe.int Tel: (995) 32913870

ACT OF ENGAGEMENT

(Restricted consultation 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 a comprehensive upgrade of the existing software and websites of the Political Finance Monitoring Department of the State Audit Office of Georgia in the frame of the Project “Reform of the Electoral Practice in Georgia”.

The signature of this Act of Engagement by the tenderer 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).

Tenderers shall:

1. Fill in the below sections **Contact details of the Provider** 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 signed and scanned copy to the Council (See Contact person details above).

Contact details of the Provider	Name and address ▶			
	Representative ▶			
	Contact person ▶			
	VAT n° (if any) ▶			
	Country and registration n° (if any) ▶			
	Email (Contact person) ▶			
	Phone number (Contact person) ▶			
Bank details	Account holder ▶			
	IBAN n° (if available) ▶		Full bank account n° (for non-IBAN countries only) ▶	
	Bank name and Branch ▶		BIC/SWIFT Code ▶	
	Bank Address ▶		Account currency ▶	

¹ Which has its seat Avenue de l'Europe, 67075 Strasbourg Cedex, France

A. Terms of reference / Table of fees

The Council of Europe is currently implementing a Project "Reform of the Electoral Practice in Georgia". The overall objective of the Project is to improve the integrity, transparency and quality of the electoral process. In that context, it is looking for a Provider to provide a comprehensive upgrade to existing software and websites of the Political Finance Monitoring Department of the State Audit Office of Georgia.

BACKGROUND INFORMATION

In 2016 the State Audit Office developed several electronic tools to enhance transparency of political finances; these include political parties' reporting platform for internal consumers (www.fms.sao.ge) and an official webpage for external users (www.monitoring.sao.ge).

Internal Control System - www.fms.sao.ge

Georgian law obliges political parties and other electoral subjects to submit information on their revenue and expenses to the State Audit Office. The web application www.fms.sao.ge is a reporting system allowing electoral subjects to submit declarations in accordance with the law electronically. The application is not accessible to external users.

Search Engine - www.monitoring.sao.ge

www.monitoring.sao.ge is designed for transparency of political finances. Using the application, any visitor has the opportunity to find pertinent information about a political party, natural or legal person.

At this stage the webpage of the Political Finance Monitoring Department allows the visitors to:

1. Find information about the revenues and expenditures of parties and independent candidates – both in the form of official scanned documents as well as the excel files;
2. Find information about the monetary or non-monetary donations by natural persons or legal entities;
3. Download monitoring reports and statistical data processed and uploaded by department employees;
4. Find information about donations in the system, filter (according to party, date, amount, type and shape) and download data in excel and / or CSV formats;
5. Obtain general information about the service and get acquainted with the news.

The webpage is receiving information that needs filtering from www.fms.sao.ge and processes it automatically. A separate system (CMS) is created for information administration, from which the entire structure of the website is managed.

General Technical Specifications

Both web platforms www.fms.sao.ge and www.monitoring.sao.ge are created on PHP, MySql platform.

1. **Back** - The server side of the applications is based on object oriented programming (**OOP**) principles, mainly written using the **laravel framework**.
2. **Front** - the external user side of the application uses **twitter bootstrap, UIKit**, and other contemporary libraries.

Applications are closely interconnected and use the same database. Applications comprise sub-applications (public services, automated processes, etc.).

OBJECTIVE AND SCOPE OF THE ASSIGNMENT

The development project covers the following issues:

1. **Redesign** - the proposed changes will fundamentally change the functionality of the project and the existing priorities. Therefore, it is important to update both the visual side of the webpage as well as its user module (UX / UI).
2. **Statistical Analysis Platform** - the website should have a platform enabling users to graphically view information about the political parties and election subjects, namely:
 - compare expenses incurred by the 4-5 candidates in a specific time period;
 - find a rating on the donors with the greatest amounts of contribution;
 - find information about the top paid party officials;
 - compare information on state funding;
 - export statistics generated by XLS, PDF, CSV and / or PNG formats.
3. **Update the old format information** and adapt it to the format of the declaration software. Starting January 2017 declarations of expenditure and revenue are submitted in the electronic software

developed in 2016; however, not all parties have submitted declarations in the new format since it was not obligatory. Additionally, a change of format is necessary for documents submitted since 2011 to be uploaded.

4. **Introduction of Search Engine** – an **advanced search module** must be added to the website's search software for donations, allowing users to find and filter the various expenses, such as:
 - expenses of rented offices;
 - advertising expenses, filtered by media outlets;
 - persons employed in political parties.
5. A functionality of managing new modules must be added to the existing control system (**CMS**).
6. A website **guide** detailing rules of its use must be developed.
7. **Developer API** must be created allowing interested persons to receive any information of interest from the pre-specified format (eg JSON). Relevant guidelines should be created too.
8. **Addition of a new role of analyst** - A new role of the internal user must be added, with an authority of verifying the donors both in internal databases and in public services. It should have the ability to select a status (sent to the agency, submitted, not submitted, inquired...) and attach a comment. For the internal user, a donor's filter function should be introduced according to the selected status, date, and other features. It should be possible to export information obtained from filtration.
9. Donations forms should be equipped with the possibility to import and export information through XLS.
10. Integration and incorporation into automatic processes of state databases (entrepreneurial registry, public registry, socially vulnerable database, etc.).
11. Introduction of logging system that will enable the administrator to view detailed information about users' actions.
12. Web developer must provide system support for 2 years (correcting bugs, administering visual and functional changes).

TIMING OF THE ASSIGNMENT

The project implementation timeline is May-September 2019. The Service Provider shall carry out maintenance work and correct detected faults for two years after the completion of this Contract.

CONSULTANT'S REPORTING OBLIGATIONS AND FORMATTING

The Service Provider shall be obliged to:

1. Agree each issue with the designated representatives of the State Audit Office (recipient) and the Council of Europe (client);
2. Electronically notify parties on the completion of each stage of the project implementation;
3. Take note of comments made by the client and the recipient and submit feedback on change/improvement.

Prices indicated below are final and not subject to review, throughout the duration of the contract.

Prices are indicated in Euros without VAT. For the VAT regime to be mentioned on the invoice(s), please refer to Article 4.2 of the Legal Conditions (See Section C. below).

For the VAT regime to be mentioned on the invoice, please refer to Section B below.

The Provider shall indicate its proposed fee(s) in the box(es) below.

Deliverables ▼	Deadline for delivery ▼	Fees ▼
Drafting a concept for reorganisation of the existing website and preparation for the new software.	20.05.2019	
Development of the design of the updated version of the website.	03.06.2019	
Preparation of a test version of the search engine and ratings processing platform.	17.06.2019	

Correction of the old format materials and their addition to the software.	01.07.2019	
Putting in operation of a test version of statistical data comparison and processing software.	15.07.2019	
Preparation of documentation envisioned under the project.	12.08.2019	
Introduction of the final version of information search engine.	01.09.2019	
Putting in operation the final version of the statistical data program.	16.09.2019	
	TOTAL ►	

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 or the Provider I represent is in any of the situations listed in the exclusion criteria as reproduced in Appendix I of [Rule 1333 on the procurement procedures of the Council of Europe](#);
- 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;
- 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.

The Provider shall **fill in this part, print the document, sign in the last box below and send a scan copy of the document** to the email address indicated on the 1st page.

For the Provider ▼		For the Council of Europe ▼	
On behalf of the Secretary General of the Council of Europe		On behalf of the Secretary General of the Council of Europe	
Signature	Signatory (Name, Function and Entity) ▶	Signatory (Name, Function and Entity) ▶	Cristian Urse Head of the Council of Europe Office in Georgia
	Provider ▶	% of advance payment accepted ▶	
	Place of signature ▶	Place of signature ▶	In Tbilisi, Georgia
	Date of signature ▶	Date of signature ▶	___ / ___ / ____
	Signature ▶	Signature ▶	
	PO Number ▶		
	FIMS Number ▶		

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.
<input type="checkbox"/>	The invoice shall be established including all taxes . The invoice shall indicate the total amount without taxes, the rate and the amount of the VAT and the total amount 'including all taxes'.
<input type="checkbox"/>	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

The invoice shall be established **including all taxes** (French VAT at the applicable rate). Providers/suppliers are required to register for VAT purposes at the VAT Mini One Stop Shop (VAT MOSS) 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 Mini One-Stop shop in [Address/Country] under the MOSS identification number [No. XX]".

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), and b) 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) "Anomaly" means any defect affecting the Server or Software which makes it impossible, slower or in any way difficult to access the content, and more generally any non-conformity of the Services with the provisions of the Contract;
 - b) "Tool" means the software and website to be developed by the Service Provider within the framework of the present Contract;
 - c) "Contract" shall refer to the documents described in 1.2, above;
 - d) "Council" shall mean the Council of Europe;
 - e) "Deliverables" shall mean the services or goods as described in the Terms of reference;
 - f) "Documentation" means all the documents describing the architecture, specifications or functionalities of the Tool;
 - g) "Final beneficiary" shall mean the State Audit Office of Georgia;
 - h) "Object code" is a sequence of instructions in a computer language in the form of one particular library or module produced by a compiler from the source code, that can in turn be linked to form an executable or library file;
 - i) "Parties" shall mean the Council and the Provider;
 - j) "Provider" shall mean the legal or physical person selected by the Council for the provision of the Deliverables;
 - k) "Source code" is a collection of computer instructions, written using a human-readable programming language that can be transformed by an assembler or compiler into binary machine code.

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

- 3.1.1. 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.
- 3.1.2. 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.
- 3.1.3. The Service Provider shall hand over to the Council of Europe all the Deliverables, in the format and on the media indicated and in compliance with the deadlines prescribed by the Council of Europe. The Service Provider shall be bound by an obligation of result with regards to compliance with contractual time-limits and the conformity of the Tool to the relevant Business Requirements and the normally expected standards of execution.
- 3.1.4. The Service Provider shall carry out all necessary in-house tests before delivering each Deliverable or completing each phase of the planning, in order to check the conformity of the Deliverables in question. In this connection, the Service Provider shall supply, if the Council of Europe so requests, the test scenarios used for the in-house testing it has carried out.
- 3.1.5. The Service Provider shall allow the Council of Europe access for the purposes of verification of the design and functioning of the Deliverables.
- 3.1.6. The Council of Europe is entitled, prior to acceptance of any of the deliverables (Article 9), to perform any checks and tests it deems relevant to the determination of whether the deliverables conform to the technical requirements laid down in the Act of Engagement.

3.2 Intellectual services

- 3.2.1. The provisions of Articles 3.2.2 to 3.2.10 shall apply insofar as the contract concerns the provision of intellectual services. The provisions of those Articles will remain applicable even in case of termination of Contract, whatever its cause.
- 3.2.2. 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.
- 3.2.3. 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.
- 3.2.4. The Provider guarantees that the Deliverables conform to the highest academic standards.

- 3.2.5. The Service Provider undertakes to communicate to the Council all the source and object codes of the Tool, object of the present Contract, as well as any preparatory material, and their corrections, updates and documentation.
- 3.2.6. The Provider cedes irrevocably and exclusively to the Council throughout the entire world and for the entire period of copyright protection, all rights in the deliverable(s) produced for their benefit as a result of the execution of the present contract. Such rights shall include in particular the right to:
- use the deliverable(s) for whatever purpose the Council deems necessary;
 - reproduce or cause to be reproduced the deliverables, free of charge or for a consideration, in unlimited numbers, all or part of the deliverables, in any medium, known or unknown, existing or future, and in particular on paper or in related form, in analogue or digital, optical or magnetic form or in any other computerised, electronic or telecommunications-based form;
 - present, disseminate or cause to be disseminated the deliverables, free of charge or for a consideration, to any audience and by any means of its choice, existing or future, and in particular by presentation, projection, transmission, broadcasting or any form of communication or telecommunication, on any network, in particular telephone, cable, terrestrial or satellite;
 - adapt, modify, cause to be developed, improve or curtail the deliverables, directly or through a third party, in particular the right to adapt them to any electronic or data processing mediums, to produce new versions or new developments, and to ensure their maintenance, free of charge or for a consideration;
 - translate or transcribe the deliverables, or to cause them to be translated or transcribed, into any language or any computer language;
 - exploit and commercialise the deliverables, directly or through a third party, and in particular to assign the rights to third parties, temporarily or permanently, in whole or in part, and in any form, by assignment, licence or any other form of contract.
- 3.2.7. The present assignment concerns all rights of reproduction, use, exploitation and modification of source codes, object codes and executable codes of any creation in any computer language.
- 3.2.8. 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.
- 3.2.9. Notwithstanding the provisions of Article 3.2.6 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.

3.3 Guarantees

- 3.3.1. The Service Provider shall guarantee the Council's peaceful exercise of the rights transferred or conceded to it under Article 3.2 against all disturbance, claims and attempts at dispossession whatsoever from third parties maintaining that a Deliverable infringes their rights, including intellectual property rights.
- 3.3.2. The Service Provider shall guarantee that the Tool conforms to the relevant Business Requirements, as well as to the normally expected standards of execution. In respect of this guarantee, the Service Provider shall rectify, free of charge, any anomalies reported to it by the Council up to the expiry of a period of two years dating from the signature of the Tool's acceptance report by the Parties.

3.4 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.

3.5 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.

3.6 Loyalty and confidentiality

- 3.6.1. 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.
- 3.6.2. 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.

3.7 Disclosure of the terms of the contract

- 3.7.1. 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.
- 3.7.2. Whenever appropriate, specific confidentiality measures shall be taken by the Council to preserve the vital interests of the Provider.

3.8 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.

3.9 Data Protection

- 3.9.1. 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.

- 3.9.2. 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.

3.10 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.

3.11 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.
- 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.

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 4.2.5.
- 4.2.2. Should the deliverables be taxable in France, the amount invoiced shall be VAT inclusive.
- 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.
- 4.2.5. For the provision of "online services", should the Provider be established either in an EU country (other than France) or in a non-EU country, the invoiced amount shall include French VAT at the applicable rate. The invoice shall indicate the total amount without taxes, the rate and the amount of the VAT and the total amount 'all tax included'. The invoice shall also stipulate the following statement: "*Intra-community sale/service: French VAT collected by the Provider and paid to the Mini One-Stop shop in [Address/Country]*".

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 Rules.²
- 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 CHARTIS (Policy No. 2.004.761). A telephone helpline is available in case of emergency (+ 32 (0)3 253 69 16). The said insurance will cover specific risks related to travel and stay of the Provider (including medical costs related to unforeseen illness or accident, repatriation, death, cancellation of journey or flight, theft or loss of personal possessions). The insurance policy does not cover persons over 75 years of age.

ARTICLE 5 – BREACH OF CONTRACT

- 5.1. In the event that 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 the Deliverables provided as referred to under Article 1.1 do not reach a satisfactory level, the Council shall 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 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. The Service Provider agrees that the Project Manager and all other persons allocated to the Project shall not be replaced before the completion of obligations of the Service Provider without notice to the Council, unless:
 - a) the individual to be replaced is prevented by ill-health from carrying out his duties in connection with the agreement for a significant period; or
 - b) the individual resigns from employment with the Service Provider; or
 - c) the contract of employment of the individual is terminated; or
 - d) the Council makes a reasonable written request to the Service Provider to replace the individual because he has performed unsatisfactorily or has caused a breach of any of the Service Provider's obligations under this contract howsoever arising.
 If any such person is replaced, the Service Provider shall consult with the Council about the identity of a suitable replacement.
- 6.5. Under no circumstances shall a contractual relationship exist between the Council of Europe and any subcontractor. The Service Provider shall remain entirely responsible for the performance of its obligations towards the Council under the current contract.

² CM/Del/Dec(2010)1089/11.3 appendix 9

https://search.coe.int/intranet/Pages/result_details.aspx?ObjectId=09000016805ceb14

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 – CHANGES IN THE PROVIDER'S SITUATION OR STANDING

- 10.1. 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.
- 10.2. The Provider shall also inform the Council without delay:
- if they are involved in a merger, takeover or change of ownership or there is a change in their legal status;
 - where the Provider is a consortium or similar entity, if there is a change in membership or partnership.
 - if they are sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering;
 - 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 not subject to a procedure of the same kind;
 - if they have received a judgment with *res judicata force*, finding an offence that affects their professional integrity or serious professional misconduct;
 - 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;
 - If they are or are likely to be in a situation of conflict of interests.

ARTICLE 11 – DISPUTES

- 11.1. Any dispute regarding this Contract shall - failing a friendly settlement between the Parties - be submitted to arbitration.
- 11.2. 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 de Grande Instance of Strasbourg shall make the appointment.
- 11.3. 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 de Grande Instance of Strasbourg.
- 11.4. 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.
- 11.5. If the parties do not agree upon the law applicable to 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.
- 11.6. The arbitral decision shall be binding upon the parties and there shall be no appeal from it.

ARTICLE 12 – 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

