

Contract No. ▶	9153/2024/16
Project ID / Sector ▶	3485
Council of Europe contact point ▶	Ms 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 Europe<sup>1</sup> for the provision of consultancy services to support the development of the Educational Broadcasting Concept of the Public Broadcasting Company of Ukraine**

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).

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

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

<sup>2</sup> The Council of Europe reserves the right to request documentary evidence.

<sup>3</sup> In case of the bidder being a consortium, please list all consortium members.

<sup>4</sup> 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.

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

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<sup>5</sup> 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.

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

## A. Terms of reference / Table of fees

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The Council of Europe (hereinafter "CoE") 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 CoE aims to 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 in Ukraine, the CoE has supported the public broadcaster at various stages of its institutional development. On 19 January 2017, the Public Broadcasting Company of Ukraine (hereinafter "PBCU" or "stakeholder") was officially registered. Since then, it has undergone organisational and structural transformations to ensure its services meet the needs of Ukrainian society and align with relevant European standards and best practices. The Project is now supporting the PBCU in its further transformation through the development of the Educational Broadcasting Concept (hereinafter also referred to as "Concept" and/or "document"), aimed at building a society where education can qualitatively improve life. The Educational Broadcasting Concept is integral to achieving the PBCU's strategic goals set by 2025:

- become a reliable, independent, and safe source of information for the majority of the population;
- promote critical thinking;
- reduce anxiety;
- stimulate reflection on collective trauma;
- create high-quality content to meet the cultural and educational needs of various audiences and groups.

Having such a strategic document is essential for the institutional development of PBCU in the context of European integration and the dissemination of innovative educational practices to other media. Strengthening PBCU's educational broadcasting is particularly crucial in the context of global trends.

Before the 2022 escalation of Russia's war of aggression, Ukraine had strong education and poverty indicators: 99.6% literacy rate among citizens; over 70% of citizens had higher education, which is significantly higher than in many European countries and comparable to South Korea's 69.29% (see [here](#)). However, following the Russian invasion, Ukraine's poverty rate increased from 5.5% to 24.2%. The PISA-2023 test results show that children in frontline regions lacking access to education. It should be noted that, only children from 18 regions of Ukraine could participate in the test. Additionally, many Ukrainian children under occupation are forced to receive the "education" of the aggressor. The increasing volume of disinformation and fake news reaching wider audiences further hampers the ability of Ukrainians of all ages to make informed decisions.

Therefore, high-quality educational content from PBCU on various platforms could become a vital tool for enhancing the education level of Ukrainians of all ages and strengthening their resilience to disinformation campaigns.

### Goals:

1. Create a document that enhances the accessibility of educational content for different age and gender segments of PBCU's audience.
2. Provide diverse audiences with opportunities to form a personalised experience in consuming educational products.
3. Promote the development of a knowledge society, as well as the entertainment and communication industries through education.
4. Foster cultural innovations and social transformation through the dissemination of knowledge.
5. Address the increasing Russian disinformation campaigns.
6. Support equal access to knowledge for Ukrainian society during wartime and post-war periods through content.

### Objectives:

- Develop general approaches for creating accessible educational content for different age and gender segments of PBCU's audience.
- Create opportunities for personalised selection of educational products.

- Provide tools to counter Russian disinformation campaigns through education, teaching our audience to turn facts into contextual understanding.
- Expand and complement the educational efforts of other formal and informal educational institutions, offering our audience the chance to better understand themselves and the world.
- Promote and mainstream gender equality, diversity and inclusion.
- Promote the development of a knowledge society through equal access.

### Target Audience:

- Children aged (3)5-16 years.
- Teachers, and other formal and informal educators and their communities, who can use our products for educational purposes.
- Parents and guardians who can utilise our content in interaction with children.
- Adults with various educational and lifelong learning needs.
- Ukrainian society at large, targeted with content addressing educational needs and/or deficiencies.

In that context, it is looking for a Provider to provide consultancy services as per the Deliverables listed below.

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

Prices are indicated in Euros or Ukrainian hryvnias 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). **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.**

Providers shall indicate their proposed fees and currency in the boxes below.

Deliverables ▼	Deadline for delivery ▼	Fees ▼	Exclusion level ▼
<p><b>Deliverable 1:</b> Conduct analyses of the current content offer, distribution, and mapping of internal expertise:</p> <ul style="list-style-type: none"> <li>- Analyse the current situation, the target audiences of the Concept, their educational and development needs.</li> <li>- Analyse the available human resources within the company and identify the internal experts who may become members of the working group on the development of the Concept.</li> </ul> <p>The findings should be presented by the team of experts in writing (at least five pages of 1,800 characters with spaces). The analysis should include a list of proposed members of the working group, comprising stakeholder representatives and other staff members. The document should be presented in English and Ukrainian. (See Deliverable 2)</p>	15 September 2024		<b>EUR 8 000 tax exclusive</b>

<p><b>Deliverable 2:</b> Assist the team of international experts (contracted separately) in analysing good European and other international practices in educational broadcasting and related policies among public broadcasters and other media:</p> <ul style="list-style-type: none"> <li>- Provide guidance and inputs to the international experts on priority directions and solutions, which will be used for the identification of good practices relevant for the local context. <i>The input may be provided orally or in writing, as per the agreement reached with the international experts.</i></li> <li>- Carry out analysis of the media market practices in Ukraine to identify good practices related to educational broadcasting and equivalent policy documents (if available).</li> <li>- Present jointly with the international experts the analysis of good practices to the working group.</li> <li>- Incorporate the analysis provided by international and the Provider into the final research document (in Ukrainian).</li> </ul>	<p>30 September 2024</p>		
<p><b>Deliverable 3:</b> Coordinate the work of the working group on the development of the Educational Broadcasting Concept for the PBCU:</p> <ul style="list-style-type: none"> <li>- Propose the working methodology and format for the working group's engagement.</li> <li>- Suggest other external stakeholders that should be involved in the consultation process (public institutions, civil society, media, and academia or others).</li> <li>- Invite the stakeholders to the working group discussions and facilitate the meetings of the working group. (PBCU and CoE staff will assist in technical arrangements of the meetings)</li> <li>- Collect input from the working group members and other related actors.</li> </ul> <p>The engagement will cover up to six working group sessions (1.5-2 hours each) to be carried out in Kyiv, online or in hybrid format.</p> <p>The following documents should be submitted to the PBCU and the CoE:</p> <ul style="list-style-type: none"> <li>- Minutes of the working group meetings and attendance lists.</li> <li>- Compilation of inputs received (if inputs are submitted in writing).</li> </ul>	<p>15 October 2024</p>		

<p><b>Deliverable 4:</b> Assist with the development of the first draft of the Educational Broadcasting Concept of the PBCU:</p> <ul style="list-style-type: none"> <li>- Propose the general framework and outline of the Concept.</li> <li>- Based on the analyses carried out and inputs received (see Deliverables 1-3), prepare the draft proposal of the Concept and submit it to the stakeholders for internal and external consultations.</li> <li>- Conduct a roundtable with internal and external stakeholders to discuss the draft Concept.</li> <li>- Analyse and incorporate the feedback received into the draft document.</li> <li>- Finalise the document and submit it to the PBCU and the CoE for the approval. The draft version of the Concept should be submitted in both Ukrainian and English.</li> </ul>	25 October 2024		
<p><b>Deliverable 5:</b> Participate in the presentation of the proposed Educational Broadcasting Concept for the PBCU and obtain feedback from main partners and stakeholders to the final draft:</p> <ul style="list-style-type: none"> <li>- Deliver a presentation on the work carried out.</li> <li>- Present the structure and main elements of the draft Concept.</li> <li>- Facilitate a discussion on the implementation of the Concept to obtain oral feedback.</li> <li>- Share the draft Concept with national and international stakeholders and collect their feedback in writing.</li> </ul>	20 November 2024		
<p><b>Deliverable 6:</b> Development of the final version of the Educational Broadcasting Concept of the PBCU:</p> <ul style="list-style-type: none"> <li>- Analyse the feedback received from the stakeholders (See Deliverable 5);</li> <li>- Introduce changes to the Concept, when necessary;</li> <li>- Submit the draft in track changes to PBCU's team and the CoE Secretariat for revision.</li> <li>- Following the final approval, prepare the clean version of the document in Ukrainian and English languages and submit it to the CoE Secretariat in a word processing file format.</li> <li>- Prepare a summary report in English (at least 1 page) on the work carried out under the contract and outline main elements of the final Concept. Submit it to the CoE Secretariat together with the invoice.</li> </ul>	15 December 2024		
TOTAL ►			
VAT ►			N/A
TOTAL WITH VAT ►			N/A

## 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).

<b>For the Provider</b> ▼		<b>For the Council of Europe</b> On behalf of the Secretary General of the Council of Europe ▼		
Signature	Signatory <sup>7</sup> (Name, Function and Entity) ▶			
	Provider ▶			
	Place of signature ▶	In		
	Date of signature ▶	___ / ___ / ____		
	Signature <sup>8</sup> ▶			
		Signature ▶		
		PO Number ▶		
		FIMS Number ▶		

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

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

<b>INVOICING</b> (This part is reserved for the Council of Europe)	
<b>Invoicing Address ►</b>	<b>Council of Europe, Avenue de l'Europe, F – 67075 Strasbourg Cedex</b>
<input type="checkbox"/>	The invoice shall indicate prices <i>net fixed amount</i> .
<input type="checkbox"/>	The invoice shall be established <i>excluding tax</i> .
<input type="checkbox"/>	The invoice shall be established <i>excluding tax</i> , 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 / <a href="mailto:sie.entreprises-etrangeres@dgfip.finances.gouv.fr">sie.entreprises-etrangeres@dgfip.finances.gouv.fr</a> / 10, rue du Centre / 93465 Noisy-le-Grand Cedex / + 33 (0)1 57 33 85 00;</p> <p><input type="checkbox"/></p> <p>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@dgifp.finances.gouv.fr](mailto:sie.entreprises-etrangeres@dgifp.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.<sup>9</sup>
- 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, 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**

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

- 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