|  |  |
| --- | --- |
| Contract No. ► | HF 24 MITE |
| Project ID / Sector ► | HF 24 BH4679 / EDUCATION |
| Council of Europe contact point ► | Milos Boskovic ([milos.boskovic@coe.int](mailto:milos.boskovic@coe.int)) |

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**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[[1]](#footnote-2) for the provision of media and information technology equipment for the needs of the pilot schools in the framework of the Horizontal Facility action “Quality education for all” in Montenegro.**

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).

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Provider information** | Legal personality[[2]](#footnote-3) ► | Legal person | | Consortium | |
| 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. **Terms of reference / Table of fees**

The Council of Europe is currently implementing a joint European Union / Council of Europe Horizontal Facility project “Quality Education for All” in Montenegro. The main goal of this part of the project is to foster a quality education for all by promoting inclusion and solutions to address discrimination in the education system and in this way contribute to an inclusive, peaceful and democratic society with engaged citizens in Montenegro. The project implements activities in and with 40 schools in Montenegro who are part of the School Network. In that context, it is looking for a Provider to provide media and information technology equipment for 40 pilot schools in Montenegro.

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). **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.**

The Provider shall indicate its proposed fee in the boxes below.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Deliverables ▼** | **Quantity ▼** | **Deadline for**  **delivery ▼** | **Price**  **(per unit)**  **▼** | **Total**  **▼** | **Exclusion level**  **▼** |
| Conference cam system, CMOS technology, video resolution 1920x1080, digital zoom 4x, Bluetooth and USB, integrated microphone of high sound resolution. | 40 | 20 October 2021 |  |  |  |
| LED Video Lights with Adjustable Light Stand  (Dimmable, colour temperature 3200K-5600K, colour accuracy of +90 CRI, with Carrying Bag & Batteries) | 40 | 20 October 2021 |  |  |
| Lap top with CPU i3 or Ryzen 7 (8 GB of RAM, solidstate drive (SSD) with at least 250GB of space, dedicated graphic card (Nvidia GTX1060 or AMD RX570 as with 1080p or 1440p medium/high video settings.), OEM license for windows, 1 USB 3.1 Type-C; 2 USB 3.0 Type A; 1 HDMI, a built-in DVD/CD drive | 40 | 20 October 2021 |  |  |
| TV screen (LED TV 40" full HD, smart TV, wifi, 2 to 3 HDMI ports) | 40 | 20 October 2021 |  |  |
| HDMI cable (HDMI 5m 2.0 Version) | 40 | 20 October 2021 |  |  |
| Keyboard for PC with USB, YU | 40 | 20 October 2021 |  |  |
| Mouse for PC optical with USB and cord | 40 | 20 October 2021 |  |  |
| Extension cord with power 6 outlets and power switch | 40 | 20 October 2021 |  |  |
| Provide power point tutorial for equipment use for school staff and students in Montenegrin | 1 | 20 October 2021 |  |  |
| Delivery and installation of equipment to 40 pilot schools in Montenegro | 40 | 20 October 2021 |  |  |
| TOTAL ► | | |  |  | **54 000 EUR** |

**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 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;
* 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, inclusion in the lists of persons or entities subject to restrictive measures applied by the European Union (available at [www.sanctionsmap.eu](http://www.sanctionsmap.eu));
* 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 | |
| Signature | Signatory (Name, Function and Entity) ► |  |  | Signatory (Name, Function and Entity) ► |  |
| Provider ► |  |  | % of advance payment accepted ► |  |
| Place of signature ► | In |  | Place of signature ► | In |
| Date of signature ► | \_\_\_ / \_\_\_ / \_\_\_\_\_\_ |  | Date of signature ► | \_\_\_ / \_\_\_ / \_\_\_\_\_\_ |
| Signature  ► |  |  | Signature► |  |
|  |  |  |  | PO Number ► |  |
|  |  |  |  | FIMS Number ► |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Invoicing** (This part is reserved for the Council of Europe) | | | |
| **Invoicing Address** ► | | | **Council of Europe Programme office in Podgorica, Bulevar Dzordza Vasingtona br 98, 81000 Podgorica, Montenegro.** |
| ☐ | The invoice shall indicate prices ***net fixed amount.*** | | |
| X | The invoice shall be established ***excluding tax.*** 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 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."  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. | | |
| ☐ | 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’.  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](mailto: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. 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) and according to the Technical Specifications (Appendix 1) related to the present contract and in the tender submitted by the Provider.
  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 Tender File

c) The Technical Specifications

* 1. 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.
  2. 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”.

f) “Recipient” shall mean the 29 pilot schools as identified in the present contract and the Technical Specifications (Appendix 1). The provider acknowledges that the Recipient will be the user of the deliverables, that it will be fully liable for their use, and that the Council of Europe’s responsibility will be limited to paying the fees for the provision of said deliverables.

**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**

* 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.

**3.2 Place and date of delivery**

3.2.1 The place of delivery is defined in the Technical Specifications.

3.2.2 Delivery shall be completed within the time period defined in the Terms of Reference (Section A above).

3.2.3 The Provider shall take all the necessary measures in order to ensure that the equipment is delivered intact to the place of delivery, with all applicable customs duties and taxes paid, efficiently and on time, in accordance with the provisions of Article 3.2.2.

3.2.4 The Provider shall make all efforts to deliver the totality of the equipment ordered at the agreed date and time to facilitate the acceptance procedure. The Provider shall notify the Council of Europe of any problem arising with the delivery of any equipment at the latest five working days prior to the agreed delivery date.

**3.3 Special delivery conditions and acceptance procedure**

3.3.1 The Provider understands and agrees that the contracted equipment shall be delivered subject to the following conditions and procedures.

3.3.2 The Provider agrees to deliver the equipment to the Recipient on behalf of the Council of Europe, at the address given in the Technical Specifications.

3.3.3 Upon delivery, and following installation and commissioning of the equipment, the Provider shall provide an Act of Acceptance for signature by the three Parties, using the Model reproduced in Appendix 2 to the present contract. The Act of Acceptance must be signed in three copies – one for the Council, one for the Recipient, and one for the Provider. The Council shall take all necessary measures within its means to inspect the equipment upon delivery and to either accept or reject the deliverables, in whole or in part, for non-conformity with the specifications agreed under the contract. The Council shall have the right to appoint expert(s) to inspect the equipment in a warehouse or upon physical delivery and to confirm or deny that it conforms to the specifications agreed under the contract prior to acceptance of delivery.

3.3.4 By signing the acceptance form, the Council of Europe accepts the deliverables and transfers the ownership of the deliverables, including warranties, immediately to the Recipient who will acknowledge their reception by countersigning the acceptance form. The Council’s right to reject any goods and services shall not be in any way limited or waived by the inspection of the goods, or by the signature of an Act of Acceptance by any person other than the delegated representative[s] of the Council.

3.3.6 Signature of the Act of Acceptance shall have effect as from the date of signature.

3.3.7. All rejected items shall be returned to the Provider (transportation charges collect), or held by the Recipient for collection by the Provider at the Provider’s risk and expense. The Provider shall continue to be bound to provide, within the shortest possible delay, those items which have been rejected, unless the contract is terminated, according to Article 5.2, by notification of the Council.

3.3.8 In the event that the Council of Europe finds that the delivered and installed equipment do not conform to the specifications agreed under the present contract, the Council may consider there to have been a breach of contract within the meaning of Article 5 below and decide to terminate the contract. The Council shall pay only the amount corresponding to goods actually delivered and services actually provided at the time of breach of the contract and shall be entitled to reimbursement of any sums already paid for goods not delivered or services not provided.

3.3.9 If the delivery and installation is not possible on the initially agreed dates, the Provider shall ensure safe storage for the equipment upon the request of the Council or the Recipient. Such storage shall be at the cost of the Provider, unless the delay is caused by the Recipients, in which case, the party having caused the delay shall cover the storage cost. The maximal duration of such storage may not exceed 3 (three) calendar months from the date of intended delivery. Upon request of the Recipient or on the working day following the expiration of the maximal 3 (three) month storage period, the equipment shall be delivered, except where otherwise agreed, to the addresses given in the Technical Specifications.

3.3.10 The persons designated by the Council to accept the equipment under Article 3.3.3 above shall have power to sign the Act of Acceptance and to transfer the contract and title in the equipment to the Recipient.

3.3.11 The Recipient assumes the risk of accidental damage or accidental loss of the equipment upon delivery. The Recipient shall indemnify the Council for any claims arising out of the storage, handling and all other form of use of the equipment by the Recipient or any third party.

3.3.12 The Recipient shall indemnify the Council against all liabilities, costs, expenses, damages and losses that the Council suffers or incurs under or in connection with the Contract after the signature of the Act of Acceptance, except to the extent that such losses, damages or costs arise as a result of the Council’s failure to perform or satisfy its obligations under the Contract before that date.

3.3.13 The Council shall take such action as the Recipient may reasonably request to avoid, dispute, compromise or defend any claim, action or proceedings brought under or in connection with the Contract after signature of the Act of Acceptance.

**3.4 Installation and demonstration of the equipment**

Unless otherwise agreed in writing prior to the final date of delivery, the Provider shall deliver and install the goods in the location(s) indicated by the Council or the Recipient on the date agreed. Upon delivery, the Provider shall commission the equipment to ascertain it operates correctly and safely.

**3.5 Warranty**

3.5.1 The Provider warrants that the services and equipment comply with the standards and technical requirements recorded in the Technical Specifications.

3.5.2 The Provider further warrants that the services and equipment comply with the standards and technical requirements established in the beneficiary country as well as the regulatory documents and State standards.

3.5.3 The Provider warrants that the material of which the equipment is made has no defects and that the equipment has been manufactured to the required standard, and is absent of defects related to the manufacturing process.

3.5.4 The Provider undertakes to replace or repair any defective part in the items listed in the Technical Specifications free of charge. The warranty periods shall be those indicated in the Technical Specifications and shall be calculated from the earliest of the following dates: a) the date of signing by the last of the parties of the Act of Acceptance; b) the date when the Recipient first uses the provided equipment for the purposes intended under the Project described in the Terms of Reference (Section A above); c) the date falling on the sixtieth day after the date of hardware’s delivery to the Recipient, if the installation is postponed for sixty days or more from that date for reasons beyond the control of the Provider.

3.5.5 The Provider shall not be liable to replace or repair free of charge parts damaged by normal wear and tear, unless covered by the respective warranty periods.

3.5.6 The Provider shall ensure the availability upon order of spare parts for all items of equipment listed in the Technical Specifications as from the date of signing of the Act of Acceptance.

3.5.7 The Provider shall provide the Recipient upon delivery with the respective and duly filled-in warranty certificates for each item of the equipment to be delivered under this contract, containing a description of the equipment, serial numbers and after-sales service terms.

3.5.8 During the warranty period, the Provider must ensure the minimum level of support as defined in the Technical Specifications.

3.5.9 The warranty to the equipment shall not cover defects in their operation resulting from improper use of the equipment.

3.5.10 If, during the respective warranty periods, the Recipient discover defects of the equipment which were not identified at the transfer of the equipment, the Recipient shall take all necessary measures to prevent further deterioration of the equipment and send an appropriate written notification about these defects to the Provider.

3.5.10 The Provider guarantees the correction of defects free of charge in the delay set out in the Technical Specifications upon the Recipient’s notification during the warranty period. In the event that repair or replacement proves impossible within this delay, the Provider shall notify the Recipient as soon as possible of the reason for delay and provide an estimate of the time for completion. All corrections of defects shall be completed within 60 days of the Recipient’s notification.

3.5.11 The correction of defects under warranty can be made by way of replacement or repair of the equipment.

3.5.12 The Provider shall deliver spare parts required for the repair of abovementioned defects and any damage caused by the defect in the equipment under warranty at its own expense. Where the Recipients wishes replacement spare parts to be fitted at the same time, independent of the defective part or any fault of the Provider, the Recipient shall agree to pay the market price where these goods are not covered by the warranty.

3.5.13 After the expiry of the equipment warranty period, the Provider and the Recipient may by mutual consent conclude a post-warranty service agreement for all or some of the equipment on a one-off or continuing basis.

3.5.14 All disputes concerning the warranties for the equipment shall be determined in accordance with Article 11 below.

**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**

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.
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**

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.
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**

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.
2. Where the Provider, pursuant to its obligations under this contract, processes personal data on behalf of the Council, it shall:
3. Process personal data only in accordance with written instructions from the Council;
4. 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;
5. 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;
6. 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;
7. 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.
8. 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.
9. 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;
10. 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;
11. 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;
12. 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;
13. 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**

1. In the performance of the present contract, the Provider undertakes to comply with the applicable principles, rules and values of the Council.
2. The Staff Regulations and the rules concerning temporary staff members shall not apply to the Provider.
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**

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.
2. Amounts are final and not subject to review.

**4.2 VAT**

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.
2. Should the deliverables be taxable in France, the amount invoiced shall be VAT inclusive.
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 Council of Europe will not be in a position to provide the said certificate, the Council will pay the invoice with VAT included.
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.
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]*”.
   1. **Invoicing and payment**
6. 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.
7. 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.
8. 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.
9. 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.
10. In cases where an advance payment is foreseen, it shall be paid within 60 calendar days upon signature of the contract.

**Article 5 - Breach of contract**

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.
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.
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**

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.
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.
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.
4. The Provider may not subcontract all or part of the Deliverables without the written authorisation of the Council.
5. The parties agree that the Council may transfer this contract in full or in part to the Recipient. Ownership of the deliverables may be transferred to the Recipient at any time by the Council. The Council may also assign the benefit of this contract to the Recipient.
6. Should the Council decide to transfer the contract, the Provider agrees to the transfer of all future claims, rights, benefits and interests, in particular all warranties express and implied, as well as any outstanding obligations, to the Recipient. The Provider agrees to release the Council entirely from any future liability arising under the contract.

**Article 7 - Case of force majeure**

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.
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**

1. The Contact point within the Council of Europe is indicated on the cover page of the Act of Engagement (see page 1 above).
2. The Provider can be reached through the means indicated in the Act of Engagement (see page 1 above).
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.
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.
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.
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 special acceptance procedure, as set out in Article 3.3 above.

**Article 10 – Changes in the Provider’s situation or standing**

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.
2. The Provider shall inform also inform the Council without delay:
3. if they are involved in a merger, takeover or change of ownership or there is a change in their legal status;
4. where the Provider is a consortium or similar entity, if there is a change in membership or partnership.
5. if they are sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering;
6. 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;
7. if they have received a judgment with *res judicata force*, finding an offence that affects their professional integrity or serious professional misconduct;
8. 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;
9. If they are or are likely to be in a situation of conflict of interests.

**Article 11 – Disputes**

1. Any dispute regarding this Contract shall - failing a friendly settlement between the Parties - be submitted to arbitration.
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.
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.
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.
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.
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

1. Which has its seat Avenue de l’Europe, 67075 Strasbourg Cedex, France [↑](#footnote-ref-2)
2. The Council of Europe reserves the right to request documentary evidence. [↑](#footnote-ref-3)