

## A. INSTRUCTIONS TO TENDERERS

### **REFERENCE: ReSPA/CORE/SER/03-18**

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

These Procedures set out the rules for the submission, selection and implementation of contracts financed under this call for tenders, in conformity with the provisions of the ReSPA Public Procurement internal procedures available upon request.

#### **1 Services to be provided**

The services required by the Contracting Authority are described in the Terms of Reference.

#### **2 Participation and sub-contracting**

Sub-contracting is not allowed.

#### **3 Content of tenders**

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

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

The tender must comprise of a **Technical offer** and a **Financial offer** and these must be submitted in separate envelopes (see clause 7). Each Technical offer and Financial offer must contain one original, clearly marked "**Original**" and two copies, each marked "**Copy**". Failure to respect the requirements in clauses 3.1, 3.2 and 7 will constitute a formal error and may result in the rejection of the tender.

##### **3.1 Technical offer**

The Technical offer shall consist of the following documents:

**Tender submission form** (the referred form is Technical offer/Tender Submission Form) including all the administrative details, conditions of participation and selection criteria of the tenderer.

Tenderers are reminded that the provision of false information in this tender procedure may lead to their exclusion not only from the present procedure but from ReSPA Core budget funded contracts as well.

The Tender Submission Form will include the following Annexes:

On this purpose, the tenderer shall provide (using the templates included with the tender submission form), what follows:

A signed declaration from each legal entity identified in the tender submission form, using the format attached to the tender submission form;

Duly authorized signature: an official document (statutes, power of attorney, notary statement, etc.) proving that the person who signs on behalf of the company/joint venture/consortium is duly authorized to do so.

## Instructions to tenderers

**Technical Report** (will become Annex III of the contract), to be drawn up by the tenderer in compliance with the Terms of Reference. On this purpose it shall be used the template named Technical Offer-Technical Report.

### 3.2 Financial offer

The Financial offer (will become Annex V of the contract) shall be presented as an amount in Euro and shall be drawn up accordingly to the Terms of Reference. On this purpose it shall be used the template provided – Indicative price offer.

Payments under this contract will be made in Euro.

### 4 Variant solutions

Tenderers are not authorized to tender for a variant in addition to the present tender.

### 5 Period during which tenders are binding

Tenderers are bound by their tenders for 90 days after the deadline for the submission of tenders.

### 6 Additional information before the deadline for submission of tenders

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

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

Regional School of Public Administration - RESPA  
procurement@respaweb.eu  
Branelovica bb  
81410 Danilovgrad, Montenegro

The Contracting Authority has no obligation to provide clarifications after this date. Any prospective tenderers seeking to arrange individual meetings with the Contracting Authority concerning this contract during the tender period may be excluded from the tender procedure. Any clarification of the tender dossier will be communicated simultaneously in writing to all the tenderers at the latest 11 calendar days before the deadline for submission of tenders.

### 7 Submission of tenders

	DATE	TIME, PLACE
Deadline for request for any clarifications from the Contracting Authority	1 June 2018	16:00 h
Deadline for answers and clarifications	11 June 2018	16:00 h
Deadline for submission of tenders	22 June 2018	10:00 am*

## Instructions to tenderers

	DATE	TIME, PLACE
Completion date for evaluation of offers	June 2018	
Notification of award to the selected tenderer	June/July 2018	
Contract signature	July 2018	
Commencement order	Immediately after the signature of the contract by both parties	

\*Any tender received after this deadline will not be considered.

Tenders must include the requested documents in clause 3 above and be submitted exclusively to the Contracting Authority:

**EITHER** by recorded delivery (official postal service) to:

Regional School of Public Administration - ReSPA  
Contact person: Ms. Natasa Kuc  
Branelovica bb  
81410 Danilovgrad  
Montenegro (MNE)

**OR** hand delivered (including courier services) directly to the Contracting Authority in return for a signed and dated receipt to:

Regional School of Public Administration – ReSPA  
Contact person: Ms. Natasa Kuc  
Branelovica bb  
81410 Danilovgrad  
Montenegro (MNE)  
From 08:00 to 16:00

**Tenders submitted by any other means will not be considered.** Tenders must be submitted using the double envelope system, i.e., in an outer parcel or envelope containing two separate, sealed envelopes, one bearing the words "**Envelope A - Technical offer**" and the other "**Envelope B - Financial offer**". All parts of the tender other than the financial offer must be submitted in Envelope A (i.e., including the Tender submission form and its annexes and the technical report).

Any infringement of these rules (e.g., unsealed envelopes or references to price in the technical offer) is to be considered a breach of the rules and will lead to rejection of the tender.

The outer envelope should carry the following information:

- a. the address for submission of tenders indicated above;
- b. the reference code of the tender procedure to which the tenderer is responding and the contract title;
- c. the words "Not to be opened before the tender-opening session";
- d. the name of the tenderer.

The pages of the Technical and Financial offers must be numbered.

## **8 Evaluation of tenders**

The required services (please refer to Terms of Reference) are to be evaluated at the start of the evaluation.

### **8.1 Evaluation of technical offers**

The quality of each technical offer will be evaluated in accordance with the award criteria provided in the Terms of Reference. No other award criteria will be used. The award criteria will be examined in accordance with the requirements as indicated in the Terms of Reference.

#### **8.1.1 Interviews**

The Evaluation Committee does not expect to conduct any interviews.

### **8.2 Evaluation of financial offers**

Upon completion of the technical evaluation, the envelopes containing the financial offers for tenders that were not eliminated during the technical evaluation will be opened.

### **8.3 Choice of selected tenderer**

Tenders will be assessed against the award criteria set out in the Terms of Reference.

### **8.4 Confidentiality**

The entire evaluation procedure is confidential, subject to the Contracting Authority's legislation on access to documents. The Evaluation Committee's decisions are collective and its deliberations are held in closed session. The members of the Evaluation Committee are bound to secrecy.

The evaluation reports and written records, in particular, are for official use only and may be communicated neither to the tenderers nor to any party other than the Contracting Authority.

## **9 Signature of contract(s)**

### **9.1 Notification of award**

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

Before the Contracting Authority signs the contract with the successful tenderer, the successful tenderer must provide the legal entity file and the financial identification form.

The successful tenderer must also provide the documentary proof or statements required under the law of the country in which the company (or each of the companies in case of a consortium) is established, to show that it does not fall into any of the exclusion situations. This evidence or these documents or statements must carry a date, which cannot be more than 1 year before the date of submission of the tender. In addition, a statement shall be furnished stating that the situations described in these documents have not changed since then.

If the successful tenderer fails to provide the documentary proof or evidence within 15 calendar days following the notification of award or if the successful tenderer is found to have provided false information, the award will be considered null and void. In such a case, the Contracting Authority may award the tender to another tenderer or cancel the tender procedure.

### **9.2 Signature of the contract(s)**

Within 15 days of receipt of the contract already signed by the Contracting Authority, the selected tenderer shall sign and date the contract and return it to the Contracting Authority.

## Instructions to tenderers

Failure of the selected tenderer to comply with this requirement may constitute grounds for the annulment of the decision to award the contract. In such a case, the Contracting Authority may award the tender to another tenderer or cancel the tender procedure.

The other tenderers will be informed that their tenders were not accepted, by means of a standard letter, which includes an indication of the relative weaknesses of their tender by way of a comparative table of the scores for the winning tender and the ones for the unsuccessful tender.

### **10 Cancellation of the tender procedure**

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

Cancellation may occur where:

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

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

### **11 Appeals**

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint.

## SERVICE CONTRACT NOTICE

### Provision of mobile communication service for ReSPA Secretariat Danilovgrad, Montenegro

#### 1. Reference

RESPA/CORE/SER/003-2018

#### 2. Procedure

Competitive tender procedure

#### 3. Programme title

ReSPA Administration

#### 4. Financing

Financing agreement

#### 5. Contracting Authority

ReSPA - Regional School of Public Administration.

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## CONTRACT SPECIFICATION

#### 6. Nature of contract

Global price

#### 7. Contract description

The contract aims for selecting a company for provision of mobile communication service for ReSPA Secretariat.

#### 8. Number and titles of lots

N/A

#### 9. Maximum budget

Up to EUR 24,000 per two years contract.

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## CONDITIONS OF PARTICIPATION

#### 10. Eligibility

Participation is open to all legal persons participating either individually or in a grouping (consortium) of tenderers

#### 11. Number of tenders

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

#### 12. Grounds for exclusion

As part of the tender, tenderers must submit a signed declaration, included in the tender form, to

the effect that they are not in any of the exclusion situations listed in Section 2.2 of the ReSPA Public Procurement Internal Procedure.

### **13. Sub-contracting**

Subcontracting is not allowed.

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## **PROVISIONAL TIMETABLE**

### **14. Provisional commencement date of the contract**

July 2018

### **15. Implementation period of the tasks**

The period of implementation of tasks will be up to 24 months from the commencement date of the contract.

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## **SELECTION AND AWARD CRITERIA**

### **16. Selection criteria**

Same criteria for legal and natural person

The following selection criteria will be applied to candidates. In the case of applications submitted by a consortium, these selection criteria will be applied to the consortium as a whole:

#### **1) Economic and financial capacity of tenderer**

- The average annual turnover of the candidate for each of the financial years 2016 and 2017 must exceed the maximum budget of the contract (i.e., the maximum budget stated in the contract notice divided by the initial contract duration in years, where this exceeds 1 year);
- The current assets of the candidate at the end of the years 2016 and 2017 were larger than the current liabilities

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

At least 5 staff currently working for the applicant in fields related to this contract.

#### **3) Technical capacity of candidate** (based on items 5 and 6 of the tender form)

- the candidate has completed successfully at least one (1) contract covering the field of mobile communication services.

These fields can be covered by one single contract or each field can be covered by separate contracts. The contract(s) must have been implemented within three (3) years before the deadline for receipt of applications, as indicated in point 18 of this contract notice.

Previous experience which would have led to breach of contract and termination by a Contracting Authority shall not be used as reference.

### **17. Award criteria**

The best value for money is established by weighing technical quality against price on a 60/40 basis.

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## **TENDERING**

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

The deadline for receipt of tenders is specified in point 7 of the Instruction to Tenderers.

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

Tenders must be submitted using the standard tender form for Competitive Procedures, the format and instructions of which must be strictly observed.

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

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

Tenders must be submitted in English exclusively to the Contracting Authority, using the means specified in point 7 of the Instructions to Tenderers.

Tenders submitted by any other means will not be considered.

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

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

Any such notification of alteration or withdrawal shall be prepared and submitted in accordance with point 7 of the Instructions to Tenderers. The outer envelope (and the relevant inner envelope if used) must be marked 'Alteration' or 'Withdrawal' as appropriate.

### **22. Operational language**

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

### **23. Legal basis**

Law of Montenegro shall govern all matters not covered by the contract





# ReSPA

Regional School  
of Public Administration

## **B.CONTRACT FOR SERVICES No. FN/RES/CORE/003-18 RELATIVE TO RESPA CORE BUDGET ACTIVITIES**

Regional School of Public Administration  
Branelovica bb, 81400 Danilovgrad  
("the Contracting Authority"),

of the one part,

and

xxxx<sup>1</sup>, ("the Contractor")

of the other part,

have agreed as follows:

### **CONTRACT TITLE: Provision of mobile communication services for ReSPA Secret Identification number RESPA/CORE/SER/003-18**

#### **1. SUBJECT**

- 1.1. The subject of this Contract is provision of mobile communication service for ReSPA Secretariat.
- 1.2. The contractor shall execute the tasks assigned to him in accordance with the Terms of Reference annexed to the Contract (Annex II)

#### **2. CONTRACT VALUE**

The contract estimated value is up to xxx EUR per two years contract. In this regard, ReSPA whatsoever may not be held liable for the fulfilment of the estimated budget but only for the amount of services requested and rendered.

#### **3. ORDER OF PRECEDENCE OF CONTRACT DOCUMENTS**

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

- The contract agreement
- The Special Conditions
- The General Conditions (Annex I)

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<sup>1</sup> Except where the contracting party is not VAT registered.

- Terms of Reference (Annex II)
- Organisation and methodology (Annex III)

In case of any contradiction between the above documents, their provisions shall be applied according to the above order of precedence.

#### **4. LANGUAGE OF THE CONTRACT**

The language of the Contract and of all written communication between the Contractor and the Contracting Authority shall be English.

Done in English in three originals, two originals being for the Contracting Authority, and one original being for the Contractor.

##### **For the Contractor**

Name:

Title:

Signature:

Date:

##### **For the Contracting Authority**

Name: Ms. Ratka Sekulovic

Title: Director

Signature:

Date:

## **SPECIAL CONDITIONS**

These conditions amplify and supplement the General Conditions governing the Contract. Unless the Special Conditions provide otherwise, the General Conditions remain fully applicable. The numbering of the Articles of the Special Conditions is not consecutive but follows the numbering of the General Conditions. Other Special Conditions should be indicated afterwards.

### **Article 2     Communications**

Contact person of the Contracting Authority:  
Mr. Vlatko Naumovski, Operations Manager  
Address: ReSPA, Branelovica bb, 81400 Danilovgrad  
E mail addresses: v.naumovski@respaweb.eu

Contact person of the Contractor:  
Name of the Contractor:  
Address:  
E mail addresses:

### **Article 19    Implementation of task**

1. The start date for implementation shall be date of signature of the contract by both parties.
2. The period for implementing the task is up to 24 months from the start date.

### **Article 26    Approval and Final Reports**

The Contractor shall submit reports as specified in the Terms of Reference.

### **Article 29    Payment**

Payments will be made in EURO, 30 days after submission of invoice.

### **Article 40    Settlement of disputes**

Any dispute arising out of or relating to this Contract which cannot be settled otherwise shall be settled in accordance with the national legislation of the state of the Contracting Authority.

## **B. I GENERAL CONDITIONS FOR SERVICE CONTRACTS PRELIMINARY PROVISIONS**

### **ARTICLE 1. DEFINITIONS**

- 1.1. The headings and titles in these General Conditions shall not be taken as part thereof or be taken into consideration in the interpretation of the Contract.
- 1.2. Where the context so permits words importing the singular shall be deemed to include the plural and vice versa and words importing the masculine shall be deemed to include the feminine and vice versa.
- 1.3. The word “country” shall be deemed to include State or Territory.
- 1.4. Words importing persons or parties shall include firms and companies and any organisation having legal capacity.
- 1.5. The definitions of the terms used throughout this General Conditions are laid down in the "Glossary of terms", annex A1 to the ReSPA Internal Procurement Procedure, which forms an integral part of this contract.

### **ARTICLE 2. NOTICES AND WRITTEN COMMUNICATIONS**

- 2.1. Whenever there is a deadline for the receipt of a written communication, the sender should ask for an acknowledgement of receipt of its communication. In any event, the sender shall take all the necessary measures to ensure timely receipt of the communication
- 2.2. Any notice, consent, approval, certificate or decision by any person required under the contract shall be in writing, unless otherwise specified, and shall not be unreasonably withheld or delayed.
- 2.3. Any oral instructions or orders shall be confirmed in writing.

### **ARTICLE 3. ASSIGNMENT**

- 3.1. An assignment is any agreement by which the Consultant transfers its contract or part thereof to a third party.
- 3.2. The Consultant shall not, without the prior written consent of the Contracting Authority, assign the contract or any part thereof, or any benefit or interest hereunder.
- 3.3. The approval of an assignment by the Contracting Authority shall not relieve the Consultant of its obligations for the part of the contract already performed or the part not assigned.
- 3.4. Assignees must satisfy the eligibility criteria applicable to the award of the contract and they can not be in any of the situations excluding them from participating in contracts which are listed in Section 2.2. of the ReSPA Internal Procurement Procedure.

### **ARTICLE 4. SUBCONTRACTING**

- 4.1. Any agreement by which the Consultant entrusts performance of a part of the services to a third party is considered to be a sub-contract. For this purpose, individual experts recruited for the project as key or non key experts are not regarded as subcontractors. The conditions for subcontracting are specified in the Special Conditions.

- 4.2. The Consultant must seek the prior written authorisation of the Contracting Authority before entering into a subcontract. This authorisation will be based on the services to be subcontracted and the identity of the intended sub-contractor. The Contracting Authority shall, with due regard to the provisions of Article 2.2, within 30 days of receipt of the notification, notify the Consultant of its decision, stating reasons, should it withhold such authorisation.
- 4.3. No subcontract can create contractual relations between any subcontractor and the Contracting Authority.
- 4.4. The Consultant shall be responsible for the acts, defaults and negligence of its subcontractors and their experts, agents or employees, as if they were the acts, defaults or negligence of the Consultant, its experts, agents or employees. The approval by the Contracting Authority of the sub-contracting of any part of the contract or of the engagement by the Consultant of subcontractors to perform any part of the services shall not relieve the Consultant of any of its obligations under the contract.
- 4.5. If a subcontractor is found by the Contracting Authority or the Project Manager to be incompetent in discharging its duties, the Contracting Authority or the Project Manager may request the Consultant forthwith, either to provide a subcontractor with qualifications and experience acceptable to the Contracting Authority as a replacement, or to resume the implementation of the tasks itself.
- 4.6. Subcontractors must satisfy the eligibility criteria applicable to the award of the contract and they can not be in any of the situations excluding them from participating in contracts which are listed in Section 2.2 of the ReSPA Internal Procurement Procedure.
- 4.7. Those services entrusted to a subcontractor by the Consultant cannot be entrusted to third parties by the sub-contractor, unless otherwise agreed by the Contracting Authority.
- 4.8. Any change of subcontractor without the prior written consent of the Contracting Authority shall be considered to be a breach of contract under Article 34 and 36.

## **OBLIGATIONS OF THE CONTRACTING AUTHORITY**

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

- 5.1. The Contracting Authority shall supply the Consultant promptly with any information and/or documentation at its disposal which may be relevant to the performance of the contract. Such documents shall be returned to the Contracting Authority at the end of the period of implementation of the tasks.
- 5.2. The Contracting Authority shall as far as possible co-operate with the Consultant to provide information that the latter may reasonably request in order to perform the contract.
- 5.3. The Contracting Authority shall give written notification to the Consultant of the name and address of the Project Manager.

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

- 6.1. The Consultant may request the assistance of the Contracting Authority of the beneficiary country to obtain copies of laws, regulations, and information on local customs, orders or by-laws of the country in which the services are to be performed, which may affect the Consultant in the performance of its obligations under the contract. The Contracting Authority may charge the Consultant for such assistance, which would be provided at the Consultant's own expense.

- 6.2. Subject to the provisions of the laws and regulations on foreign labour in the country in which the services are to be performed, the Contracting Authority of the beneficiary country shall make every effort to facilitate the procurement by the Consultant of all required visas and permits, including work and residence permits, for the personnel whose services the Consultant and the Contracting Authority consider necessary as well as residence permits for their families.
- 6.3. The Contracting Authority shall issue to its employees, agents and representatives all such instructions as may be necessary or appropriate to facilitate the prompt and effective performance of the services.

## **OBLIGATIONS OF THE CONSULTANT**

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

- 7.1. For matters not governed by the contract, the Consultant shall respect and abide by all laws and regulations in force in the beneficiary country and shall ensure that its personnel, their dependants, and its local employees also respect and abide by all such laws and regulations. The Consultant shall indemnify the Contracting Authority against any claims and proceedings arising from any infringement by the Consultant, its employees and their dependants of such laws and regulations.
- 7.2. The Consultant shall perform the services under the contract with due care, efficiency and diligence, in accordance with the best professional practice.
- 7.3. The Consultant shall comply with administrative orders given by the Project Manager. Where the Consultant considers that the requirements of an administrative order go beyond the authority of the Project Manager or of the scope of the contract, it shall, on pain of being time-barred, notify the Project Manager, explaining its opinion, within 30 days after receipt thereof. Execution of the administrative order shall not be suspended because of this notice.
- 7.4. The Consultant shall treat all documents and information received in connection with the contract as private and confidential, and shall not, save in so far as may be necessary for the purposes of the performance thereof, publish or disclose any particulars of the contract without the prior consent in writing of the Contracting Authority or the Project Manager after consultation with the Contracting Authority. If any disagreement arises as to the necessity for any publication or disclosure for the purpose of the contract, the decision of the Contracting Authority shall be final.
- 7.5. If the Consultant is a consortium of two or more persons, all such persons shall be jointly and severally bound to fulfil the terms of the contract. The person designated by the consortium to act on its behalf for the purposes of this contract shall have the authority to bind the consortium.
- 7.6. Any alteration of the composition of the consortium without the prior written consent of the Contracting Authority shall be considered to be a breach of contract.
- 7.7. The Consultant shall give written notification to the Contracting Authority of the name and address of its contact, bank account and auditor(s) for the Contract. The Consultant must use the form in Annex VI for notification of its bank account. The Contracting Authority shall have the right to oppose the Consultant's choice of bank account or auditor.

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

- 8.1. The Consultant shall at all time act loyally and impartially and as a faithful adviser to the Contracting Authority in accordance with the rules and/or code of conduct of its profession as well as with appropriate discretion. It shall, in particular, refrain from making any public statements concerning the project or the services without the prior approval of the Contracting Authority, and from engaging in any activity which conflicts with its obligations towards the Contracting Authority under the contract. It shall not commit the Contracting Authority in any

way whatsoever without its prior written consent, and shall, where appropriate, make this obligation clear to third parties.

- 8.2. For the period of execution of the contract, the Consultant and its personnel shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in the beneficiary country. The Consultant shall respect internationally agreed core labour standards, e.g. the ILO core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation, and the abolition of child labour.
- 8.3. If the Consultant or any of its sub-contractors, personnel, agents or servants offers to give or agrees to offer or to give or gives to any person, any bribe, gift, gratuity or commission as an inducement or reward for doing or forbearing to do any act in relation to the contract or any other contract with the Contracting Authority, or for showing favour or disfavour to any person in relation to the contract or any other contract with the Contracting Authority, then the Contracting Authority may terminate the contract, without prejudice to any accrued rights of the Consultant under the contract.
- 8.4. The payments to the Consultant under the contract shall constitute the only income or benefit it may derive in connection with the contract and neither it nor its personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, its obligations under the contract.
- 8.5. The Consultant shall not have the benefit, whether directly or indirectly, of any royalty, gratuity or commission in respect of any patented or protected Article or process used in or for the purposes of the contract or the project, without the prior written approval of the Contracting Authority.
- 8.6. The Consultant and its staff shall maintain professional secrecy, for the duration of the contract and after completion thereof. In this connection, except with the prior written consent of the Contracting Authority, neither the Consultant nor the personnel employed or engaged by it shall at any time communicate to any person or entity any confidential information disclosed to them or discovered by them, or make public any information as to the recommendations formulated in the course of or as a result of the services. Furthermore, they shall not make any use prejudicial to the Contracting Authority, of information supplied to them and of the results of studies, tests and research carried out in the course and for the purpose of performing the contract.
- 8.7. The execution of the contract shall not give rise to unusual commercial expenses. If such unusual commercial expenses emerge, the contract will be terminated. Unusual commercial expenses are commissions not mentioned in the contract or not stemming from a properly concluded contract referring to the contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.
- 8.8. The Consultant shall supply to the Contracting Authority on request supporting evidence regarding the conditions in which the contract is being executed. The Contracting Authority may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses.

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

- 9.1. The Consultant shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified in writing to the Contracting Authority without delay.

- 9.2. The Contracting Authority reserves the right to verify that such measures are adequate and may require additional measures to be taken if necessary. The Consultant shall ensure that its staff, including its management, is not placed in a situation which could give rise to conflict of interests. Without prejudice to Article 7, the Consultant shall replace, immediately and without compensation from the Contracting Authority, any member of its staff exposed to such a situation.
- 9.3. The Consultant shall refrain from any contact which would compromise its independence or that of its personnel. If the Consultant fails to maintain such independence, the Contracting Authority may, without prejudice to compensation for any damage which it may have suffered on this account, terminate the contract forthwith.
- 9.4. The Consultant shall after the conclusion or termination of the contract, limit its role in connection with the project to the provision of the services. Except with the written permission of the Contracting Authority, the Consultant and any other Consultant, contractor or supplier with whom the Consultant is associated or affiliated shall be disqualified from the execution of works, supplies or other services for the project in any capacity, including tendering for any part of the project.
- 9.5. ReSPA staff, regardless of their administrative situation, shall not be recruited as experts in contracts financed by the ReSPA budget unless the prior written approval has been granted by the ReSPA Director.
- 9.6. The Consultant and anyone working under its authority or control in the performance of the contract or on any other activity shall be excluded from access to ReSPA financing available under the same project unless they can prove to the Contracting Authority that the involvement in previous stages of the project does not constitute unfair competition.

## **ARTICLE 10. ADMINISTRATIVE AND FINANCIAL PENALTIES**

- 10.1. Without prejudice to the application of penalties laid down in the contract, if the Consultant has been guilty of making false declarations, has made substantial errors or committed irregularities and fraud, or has been found in serious breach of its contractual obligations the Consultant may be excluded from all contracts financed by the ReSPA budget for a maximum of five years from the time when the infringement is established, to be confirmed after an adversarial procedure with the Consultant. The Consultant may justify its arguments against the penalty within 30 days of notification of it by recorded delivery or equivalent. In the absence of a reaction for its part or of the written withdrawal of the penalty by the European Commission within 30 days of the above-mentioned arguments, the decision imposing the penalty will become binding. The period of exclusion may be extended to ten years in the event of a repeat offence within five years of the first infringement.
- 10.2. Consultants who have been found to have seriously failed to meet their contractual obligations, other than foreseen in Article 19, shall also be subject to financial penalties representing 2-10% of the total value of the Contract. This rate may be increased to 4-20% in the event of a repeat offence within five years of the first infringement.
- 10.3. Where, after the award of the contract, the award procedure or the performance of the contract prove to have been subject to substantial errors, irregularities or fraud, and where this is attributable to the Consultant, the Contracting Authority may refuse to make payments, may recover amounts already paid or may terminate all the contracts concluded with this Consultant, in proportion to the seriousness of the errors, irregularities or fraud.

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

- 11.1. The Consultant shall prepare all specifications and designs using accepted and generally recognised systems acceptable to the Contracting Authority and taking into account the latest design criteria.



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

## **ARTICLE 12. INDEMNIFICATION**

- 12.1. At its own expense, the Consultant shall indemnify, protect and defend, the Contracting Authority, its agents and employees, from and against all actions, claims, losses or damage arising from any act or omission by the Consultant in the performance of the services, including any violation of any legal provisions, or rights of third parties, in respect of patents, trade marks and other forms of intellectual property such as copyrights.
- 12.2. At its own expense, the Consultant shall indemnify, protect and defend the Contracting Authority, its agents and employees, from and against all actions, claims, losses or damages arising out of the Consultant's performance of the contract provided that:
- (a) the Consultant is notified of such actions, claims, losses or damages not later than 30 days after the Contracting Authority becomes aware of them;
  - (b) the ceiling on the Consultant's liability to the Contracting Authority shall be limited to an amount equal to the contract value, and such ceiling shall not apply to any losses or damages caused to third parties by the Consultant or by the Consultant's willful misconduct;
  - (c) the Consultant's liability shall be limited to actions, claims, losses or damages directly caused by such failure to perform its obligations under the contract and shall not include liability arising from unforeseeable occurrences incidental or indirectly consequential to such failure.
- 12.3. At its own expense, the Consultant shall, upon request of the Contracting Authority, remedy any defect in the performance of the services in the event of the Consultant's failure to perform its obligations under the contract.
- 12.4. The Consultant shall have no liability whatsoever for actions, claims, losses or damages occasioned by:
- (a) the Contracting Authority omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Consultant, or requiring the Consultant to implement a decision or recommendation with which the Consultant disagrees or on which it expresses a serious reservation; or
  - (b) the improper execution of the Consultant's instructions by agents, employees or independent Consultants of the Contracting Authority.
- 12.5. The Consultant shall remain responsible for any breach of its obligations under the contract for such period after the services have been performed as may be determined by the law governing the contract.

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

- 13.1. The Contracting Authority may request the Consultant and/or its personnel performing the services to undergo a medical examination by a qualified medical practitioner before leaving their usual place of residence and the Consultant shall as soon as is practicable furnish the Contracting Authority with a medical certificate indicating whether or not the experts are fit to implement the required services.
- 13.2. For the period of implementation of the tasks, the Consultant shall obtain medical insurance for itself and other persons employed or contracted by it under the contract. The Contracting Authority shall be under no liability in respect of the medical expenses of the Consultant.
- 13.3. Within 20 days of signing the contract, the Consultant shall take out and maintain a full indemnity insurance policy for a sum up to the higher of the maximum amount foreseen by the legislation of the beneficiary country and the amount foreseen by the legislation of the country

in which the Consultant has its headquarters and covering, during the period of implementation of the tasks, the following aspects:

- (a) the Consultant's liability in respect of sickness or industrial accident affecting its employees, including the cost of repatriation on health grounds;
  - (b) loss of, or damage to, the Contracting Authority's equipment used to perform the contract;
  - (c) civil liability in the event of accidents caused to third parties or to the Contracting Authority and any employee of that Authority arising out of the performance of the contract.
  - (d) accidental death or permanent disability resulting from bodily injury incurred in connection with the contract; and
- 13.4. The Consultant shall also insure the personal effects of its employees, experts and their families located in the beneficiary country against loss or damage.
- 13.5. The Consultant shall furnish proof of the insurance policy and of regular payment of premiums without delay whenever required to do so by the Contracting Authority or the Project Manager.
- 13.6. The Consultant shall put in place security measures for its employees, experts and their families located in the beneficiary country commensurate with the physical danger facing them.13.7. The Consultant will also be responsible for monitoring the level of physical risk to which its employees, experts and their families located in the beneficiary country are exposed and for keeping the Contracting Authority informed of the situation. In the event that the Contracting Authority or the Consultant shall become aware of an imminent threat of danger to the life or health of any of its employees, experts or their families, the Consultant may take immediate action to remove the individuals concerned to safety. If the Consultant takes such action, this must be communicated immediately to the Project Manager and may lead to suspension of the contract in accordance with Article 35.

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

- 14.1. All reports and data such as maps, diagrams, drawings, specifications, plans, statistics, calculations, databases, software and supporting records or materials acquired, compiled or prepared by the Consultant in the performance of the contract shall be the absolute property of the Contracting Authority unless otherwise specified. The Consultant shall, upon completion of the contract, deliver all such documents and data to the Contracting Authority. The Consultant may not retain copies of such documents and data and shall not use them for purposes unrelated to the contract without the prior written consent of the Contracting Authority.
- 14.2. The Consultant shall not publish articles relating to the services or refer to them when carrying out any services for others, or divulge information obtained from the Contracting Authority, without the prior written consent of the Contracting Authority in accordance with Article 7.4.
- 14.3. Any results or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the Contract, shall be the absolute property of the Contracting Authority, which may use, publish, assign or transfer them as it sees fit, without geographical or other limitation, except where intellectual or industrial property rights already exist.

## **NATURE OF THE SERVICES**

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

- 15.1. The scope of the services is specified in Annex II and Annex III.
- 15.2. Where the contract is for an advisory function for the benefit of the Contracting Authority and/or Project Manager in respect of all the technical aspects of the project which may arise out of its implementation, the Consultant shall not have decision-making responsibility.

- 15.3. Where the contract is for management of the implementation of the project, the Consultant shall assume all the duties of management inherent in supervising the implementation of a project, subject to the Project Manager's authority.
- 15.4. If the Consultant is required to prepare a tender dossier, the dossier shall contain all documents necessary for consulting suitable Consultants, manufacturers and suppliers, and for preparing tender procedures with a view to carrying out the works or providing the supplies or services covered by an invitation to tender. The Contracting Authority shall provide the Consultant with the information necessary for drawing up the administrative part of the tender dossier.

## **ARTICLE 16. PERSONNEL AND EQUIPMENT**

- 16.1. The Consultant must inform the Contracting Authority of all personnel which the Consultant intends to use for the implementation of the tasks, other than the key experts whose CVs are included in Annex IV. Annex II and/or Annex III shall specify the minimum level of training, qualifications and experience of the personnel and, where appropriate, the specialisation required. The Contracting Authority shall have the right to oppose the Consultant's choice of personnel.
- 16.2. All those working on the project with the approval of the Contracting Authority shall commence their duties on the date or within the period laid down in Annex II and/or Annex III, or, failing this, on the date or within the periods notified to the Consultant by the Contracting Authority or the Project Manager.
- 16.3. Save as otherwise provided in the special conditions, those working on the contract shall reside close to their place of work. Where part of the services is to be performed outside the beneficiary country, the Consultant shall keep the Project Manager informed of the names and qualifications of staff assigned to that part of the services.
- 16.4. The Consultant shall:
- (a) forward to the Project Manager within 30 days of the signature of the contract by both parties, the timetable proposed for placement of the staff;
  - (b) inform the Project Manager of the date of arrival and departure of each member of staff;
  - (c) submit to the Project Manager for his/her written approval a timely request for the appointment of any non-key experts.
- 16.5. The Consultant shall adopt all measures necessary to provide and continue to provide its staff with the equipment and backup required to enable them to carry out their specified duties efficiently.

## **ARTICLE 17. REPLACEMENT OF PERSONNEL**

- 17.1. The Consultant shall not make changes to the agreed personnel without the prior written approval of the Contracting Authority. The Consultant must on its own initiative propose a replacement in the following cases:
- (a) In the event of death, in the event of illness or in the event of accident of a member of staff.
  - (b) If it becomes necessary to replace a member of staff for any other reasons beyond the Consultant's control (e.g. resignation, etc.).
- 17.2. Moreover, in the course of performance, and on the basis of a written and justified request to which the Consultant shall provide his own and the staff member's observations, the Contracting Authority can order a replacement if it considers that a member of staff is inefficient or does not perform its duties under the contract.
- 17.3. Where a member of staff must be replaced, the replacement must possess at least equivalent

qualifications and experience, and the remuneration to be paid to the replacement cannot exceed that received by the member of staff who has been replaced. Where the Consultant is unable to provide a replacement with equivalent qualifications and/or experience, the Contracting Authority may either decide to terminate the contract, if the proper performance of it is jeopardised, or, if it considers that this is not the case, accept the replacement, provided that the fees of the latter are renegotiated to reflect the appropriate remuneration level.

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

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

## **ARTICLE 18. TRAINEES**

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

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

18.3. Unless otherwise provided in the contract, remuneration for trainees and travel, accommodation and all other expenses incurred by the trainees, shall be borne by the Contracting Authority.

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

## **PERFORMANCE OF THE CONTRACT**

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

19.1. If the Consultant does not perform the services within the period of implementation of the tasks specified in the contract, the Contracting Authority shall, without formal notice and without prejudice to its other remedies under the contract, be entitled to liquidated damages for every day, or part thereof, which shall elapse between the end of the period of implementation of the tasks specified in the contract and the actual end of the period of implementation of the tasks.

19.2. The daily rate for liquidated damages is calculated by dividing the contract value by the number of days of the period of implementation of the tasks.

19.3. If these liquidated damages exceed more than 15% of the contract value, the Contracting Authority may, after giving notice to the Consultant:

- (a) terminate the contract; and
- (b) complete the services at the Consultant's own expense.

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

- 20.1. Substantial modifications to the contract, including modifications to the total contract amount and replacement of expert whose Curriculum Vitae is part of the contract, must be made by means of an addendum. If the request for an amendment comes from the Consultant, the latter must submit such a request to the Contracting Authority at least 30 days before the amendment is intended to enter into force, except in cases which are duly substantiated by the Consultant and accepted by the Contracting Authority. Within 30 days the Contracting Authority shall, by written notice to the Consultant and where appropriate, grant such amendment, either prospectively or retrospectively, or inform the Consultant that it is not entitled to the request for amendment. Any activity carried out by the Consultant without an amendment of the contract is made at the Consultant's own financial risk.
- 20.2. However, where the amendment does not affect the basic purpose of the contract and, for a fee-based contract, the financial impact is limited to a transfer within the Fees or between the fees and the provision for incidental expenditures and the provision for expenditure verification considering the fact that the latter provision cannot be decreased, involving a variation of less than 15% of the original amount (or as modified by addendum) for the total fees/provisions line where the money was taken from in the Budget breakdown in Annex V, the Project Manager shall have the power to order any variation to any part of the services necessary for the proper implementation of the tasks, without changing the object or scope of the contract. Such variations may include additions, omissions, substitutions, changes in quality, quantity, specified sequence, method or timing of implementation of the services. Such variations may not include replacement of expert whose Curriculum Vitae is part of the contract.
- 20.3. No such order for a variation may imply any extension of the period of implementation of the tasks or, for a fee-based contract, any change in the total amount of the contract.
- 20.4. Prior to any administrative order for variation, the Project Manager shall notify the Consultant of the nature and form of such variation. As soon as possible, after receiving such notice, the Consultant shall submit to the Project Manager a written proposal containing:
- (a) a description of the service to be performed or the measures to be taken and a programme for implementation of the tasks; and
  - (b) any necessary modifications to the programme of implementation of the tasks or to any of the Consultant's obligations under the contract; and
  - (c) For a fee-based contract, any adjustment to the contract value in accordance with the following principles:
    - (1) where the task is of similar character and executed under similar conditions to an item priced in the budget breakdown the equivalent numbers of working days shall be valued at the fee rates contained therein;
    - (2) where the task is not of a similar character or is not executed under similar conditions, the fee rates in the contract shall be applied to the estimated numbers of working days so far as is reasonable, failing which, a fair estimation shall be made by the Project Manager;
    - (3) where a variation is necessitated by a default or breach of contract by the Consultant, any additional cost attributable to such variation shall be borne by the Consultant.
- 20.5. Following the receipt of the Consultant's proposal, the Project Manager shall decide as soon as possible whether or not the variation shall be carried out. If the Project Manager decides that the variation shall be carried out he/she shall issue the administrative order stating that the variation shall be carried out under the conditions given in the Consultant's proposal or as modified by the Project Manager in accordance with Article 20.4.

- 20.6. On receipt of the administrative order requesting the variation, the Consultant shall proceed to carry out the variation and be bound by these General Conditions in so doing as if such variation were stated in the contract.
- 20.7. The Consultant must use the form in Annex VI for notifying any modification of its bank account.
- 20.8. This Contract can be modified only during its execution period. Any change to the contract which has not been made in the form of an administrative order or an addendum or in accordance with Article 7.8 or 20.7 shall be considered null and void.

## **ARTICLE 21. WORKING HOURS**

The days and hours of work of the Consultant or the Consultant's personnel in the beneficiary country shall be fixed on the basis of the laws, regulations and customs of the beneficiary country and the requirements of the services.

## **ARTICLE 22. LEAVE ENTITLEMENT**

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

## **ARTICLE 23. INFORMATION**

The Consultant shall furnish the Project Manager or any person authorised by the Contracting Authority, with any information relating to the services and the project as the Project Manager may at any time request.

## **ARTICLE 24. RECORDS**

- 24.1. The Consultant shall keep full accurate and systematic records and accounts in respect of the services in such form and detail as is sufficient to establish accurately that the number of working days and the actual incidental expenditure identified in the Consultant's invoice(s) have been duly incurred for the performance of the services.
- 24.2. For a fee-based contract, timesheets recording the days or hours worked by the Consultant's personnel must be maintained by the Consultant. The timesheets must be approved by the Project Manager or any person authorised by the Contracting Authority or the Contracting authority itself on a monthly basis. The amounts invoiced by the Consultant must correspond to these timesheets. Time spent travelling exclusively and necessarily for the purpose of the Contract, by the most direct route, may be included in the numbers of days or hours, as appropriate, recorded in these timesheets. Travel undertaken by the expert for mobilisation and demobilisation as well as for leave purposes shall not be considered as working days. A minimum of 7 hours worked are deemed to be equivalent to one day worked. For all experts, their time input must be rounded to the nearest whole number of days worked for the purposes of invoicing.

- 24.3. Such records must be kept for a 7-year period after the final payment made under the contract. These documents comprise any documentation concerning income and expenditure and any inventory, necessary for the checking of supporting documents, including timesheets, plane and transport tickets, pay slips for the remuneration paid to the experts and invoices or receipts for incidental expenditure. Failure to maintain such records constitutes a breach of contract and may result in the termination of the contract.
- 24.4. The Consultant shall permit the Project Manager or any person authorised by the Contracting Authority or the Contracting Authority itself to inspect or audit, , the records and accounts relating to the services and to make copies thereof both during and after provision of the services.

## **ARTICLE 25. INTERIM AND FINAL REPORTS**

- 25.1. Unless otherwise provided in the Terms of Reference, the Consultant must draw up interim reports and a final report during the period of implementation of the tasks. These reports shall consist of a narrative section and a financial section. The format of such reports is as notified to the Consultant by the Project Manager during the period of implementation of the tasks.
- 25.2. All invoices must be accompanied by an interim or final report. All invoices for a fee-based contract must also be accompanied by an up to date financial report and an invoice for the actual costs of the expenditure verification. The structure of the interim or final financial report shall be the same as that of the contractually approved budget (Annex V). This financial report shall indicate, at a minimum, the expenditure of the reporting period, the cumulative expenditure and the balance available
- 25.3. Immediately prior to the end of the period of implementation of the tasks, the Consultant shall draw up a final progress report together which must include, if appropriate, a critical study of any major problems which may have arisen during the performance of the contract.
- 25.4. This final progress report shall be forwarded to the Project Manager not later than 60 days after the end of the period of implementation of the tasks. Such report shall not bind the Contracting Authority.
- 25.5. Where the contract is performed in phases, the implementation of each phase shall give rise to the preparation of a final progress report by the Consultant.
- 25.6. Interim and final progress reports are covered by the provisions of Article 14

## **ARTICLE 26. APPROVAL OF REPORTS AND DOCUMENTS**

- 26.1. The approval by the Contracting Authority of reports and documents drawn up and forwarded by the Consultant shall certify that they comply with the terms of the contract.
- 26.2. The Contracting Authority shall, within 45 days of receipt, notify the Consultant of its decision concerning the documents or reports received by it, giving reasons should it reject the reports or documents, or request amendments. For the final progress report, the time limit is extended to 60 days. If the Contracting Authority does not give any comments on the documents or reports within the time limit, the Consultant may request written acceptance of them. The documents or reports shall be deemed to have been approved by the Contracting Authority if it does not expressly inform the Consultant of any comments within 45 days of the receipt of this written request.
- 26.3. Where a report or document is approved by the Contracting Authority subject to amendments to be made by the Consultant, the Contracting Authority shall, prescribe a period for making the amendments requested.
- 26.4. Where the final progress report is not approved, the dispute settlement procedure is automatically invoked.

- 26.5. Where the contract is performed in phases, the implementation of each phase shall be subject to the approval, by the Contracting Authority, of the preceding phase except where the phases are carried out concurrently.

## **PAYMENTS & DEBT RECOVERY**

### **ARTICLE 27. EXPENDITURE VERIFICATION**

- 27.1. No expenditure verification report is required for global price contracts.
- 27.2. Before payments are made for a fee-based contract, an external auditor who meets the specific conditions of the Terms of Reference for the expenditure verification, notified by the Consultant in accordance with Article 7.8, must examine and verify the invoices and the financial reports sent by the Consultant to the Contracting Authority.
- 27.3. The auditor must satisfy himself that relevant, reliable and sufficient evidence exists that:
- (a) the experts employed by the Consultant for this contract have been working as evidenced on the contract (as corroborated by independent, third-party evidence, where available) for the number of days claimed in the Consultant's invoices and in the financial reporting spreadsheet submitted with the interim progress reports; and
  - (b) the amounts claimed as incidental expenditure have actually and necessarily been incurred by the Consultant in accordance with the requirements of the terms of reference of the contract.
  - (c) On the basis of his/her verification, the auditor submits to the Consultant an expenditure verification report in accordance with the model in Annex VII.
- 27.4. The Consultant grants the auditor all access rights mentioned in Article 25.
- 27.5. The Contracting Authority reserves the right to require that the auditor be replaced if considerations which were unknown when the Contract was signed cast doubt on the auditor's independence or professional standards.

### **ARTICLE 28. PAYMENT AND INTEREST ON LATE PAYMENT**

- 28.1. Payments will be made in accordance with one of the two options below, as identified in Article 3 of the Special Conditions.

#### Option 1: Fee-based contract

The Contracting Authority will make payments to the Consultant in the following manner:

1. A pre-financing payment, if requested by the Consultant, of an amount as requested up to the maximum specified below, within 45 days of receipt by the Contracting Authority of the Contract signed by both parties, of a request for payment and of a financial guarantee, as defined in Article 30. The pre-financing shall be of a maximum of 40 % of the total contract amount if the implementation period of the tasks is 12 months or less, 30 % of the total contract amount if the implementation period of the tasks is between 12 and 24 months, and 20 % of the total contract amount if the implementation period of the tasks is 24 months or more.
2. Six-monthly interim payments, if any, as indicated in Article 7.2 of the Special Conditions, within 45 days of the Contracting Authority approving an interim progress report and an expenditure verification report accompanied by an invoice, in accordance with Article 26. Such interim payments shall be of an amount equivalent to the costs incurred on the basis of the expenditure verification reports. When 80% of the contract amount has been paid (pre-financing and interim payments) the amounts due to the Consultant shall be deducted from the pre-financing payment until it is completely reimbursed before any additional payments will be made.



3. The invoices must be paid such that the sum of payments does not exceed 90% of the maximum contract value stated in Article 3 of the Special Conditions; the 10% being the minimum final payment.
4. The balance of the final value of the contract after verification, subject to the maximum contract value stated in Article 3 of the Special Conditions, after deduction of the amounts already paid, within 45 days of the Contracting Authority receiving an invoice accompanied by the final progress report and a final expenditure verification report subject to approval of those reports in accordance with Article 26.

#### Option 2: Global price contract

The Contracting Authority will make payments to the Consultant in the following manner:

1. a pre-financing payment up to 60 % of the contract value stated in Article 3 of the Special Conditions within 45 days of receipt by the Contracting Authority of the Contract signed by both parties, and of a financial guarantee, as defined in Article 29;
  2. the balance of the contract value stated in Article 3 of the Special Conditions within 45 days of the Contracting Authority receiving a final invoice accompanied by the final progress report, subject to approval of that report in accordance with Article 26
- 28.2. The payment deadline of 45 calendar days referred to in Article 28.1 shall expire on the date on which the Contracting Authority's account is debited. Without prejudice to Article 35.3, the Contracting Authority may halt the countdown towards this deadline for any part of the invoiced amount disputed by the Project Manager by notifying the Consultant that part of the invoice is inadmissible, either because the amount in question is not due or because the relevant report cannot be approved and the Contracting Authority thinks it necessary to conduct further checks. In such cases, the Contracting Authority must not unreasonably withhold any undisputed part of the invoiced amount but may request clarification, alteration or additional information, which must be produced within 30 days of the request. The countdown towards the deadline will resume on the date on which a correctly formulated invoice is received by the Contracting Authority.
- 28.3. Once the deadline referred to above has expired, the Consultant may, within two months of receipt of late payment, receive default interest:
- at the rediscount rate applied by the central bank of the beneficiary country if payments are in the currency of that country,
- on the first day of the month in which the time-limit expired, plus seven percentage points. The interest shall be payable for the time elapsed between the expiry of the payment deadline and the date on which the Contracting Authority's account is debited. By way of exception, when the interest calculated in accordance with this provision is lower than or equal to EUR 200, it shall be paid to the consultant only upon demand submitted within two months of receiving late payment.
- 28.4. Payments due from the Contracting Authority shall be made into the bank account notified by the Consultant in accordance with Article 7.8.
- 28.5. The Contracting Authority will make payments in euro or in the national currency, in accordance with Article 7.1 of the Special Conditions. Where payment is in euro, for the purposes of the Provision for incidental expenditure, actual expenditure shall be converted into euro at the rate published on the Infor-Euro on the first working day of the month in which the invoice is dated. Where payment is in the national currency, it shall be converted into the national currency at the rate published on the Infor-Euro on the first working day of the month in which the payment is made.
- 28.6. For fee-based contracts, invoices must be accompanied by copies of, or extracts from, the corresponding approved timesheets referred to in Article 24.2 to verify the amount invoiced for the time input of the experts. A minimum of 7 hours worked are deemed to be equivalent to one

day worked. For all experts, their time input must be rounded to the nearest whole number of days worked for the purposes of invoicing.

- 28.7. Payment of the final balance shall be subject to performance by the Consultant of all its obligations relating to the implementation of all phases or parts of the services and to the approval by the Contracting Authority of the final phase or part of the services. Final payment shall be made only after the final progress report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Contracting Authority.
- 28.8. If any of the following events occurs and persists, the Contracting Authority may, by written notice to the Consultant, suspend in whole or in part, payments due to the Consultant under the Contract:
- (a) the Consultant defaults in the implementation of the tasks;
  - (b) any other condition for which the Consultant is responsible under the contract and which, in the opinion of the Contracting Authority, interferes, or threatens to interfere, with the successful completion of the project or the contract;
- 28.9. All payments made by the Contracting Authority into the bank account specified in the contract will have liberating effect.

The payment obligations of the ReSPA under this contract shall cease at most 18 months after the end of the period of implementation of the tasks, unless the contract is terminated in accordance with Article 35.1 of the General Conditions.

## **ARTICLE 29. FINANCIAL GUARANTEE**

- 29.1. If the pre-financing payment stated in Article 7.2 of the Special Conditions exceeds EUR 150,000, or if no proof documents have been provided for the selection criteria, the Consultant must provide a financial guarantee for the full amount of the pre-financing payment. The financial guarantee, to be approved by the Contracting Authority, shall be in the format provided for in the contract and may be provided in the form of a bank guarantee, a banker's draft, a certified cheque, a bond provided by an insurance and/or bonding company, an irrevocable letter of credit or a cash deposit made with the Contracting Authority. This financial guarantee must remain valid until it is released by the Contracting Authority in accordance with Article 29.5 or Article 29.6, as appropriate. Where the contractor is a public body the obligation for a financial guarantee may be waived depending on a risk assessment made.
- 29.2. The financial guarantee shall be provided on the letterhead of the financial institution using the template provided in Annex VI.
- 29.3. Should the financial guarantee cease to be valid and the Consultant fail to re-validate it, the Contracting Authority may either make deductions from future payments due to the Consultant under the Contract up to the total of the payments already made, or terminate the Contract if in the opinion of the Contracting Authority such deduction is impracticable.
- 29.4. If the contract is terminated for any reason whatsoever, the financial guarantee may be invoked forthwith in order to repay any balance still owed to the Contracting Authority by the Consultant, and the guarantor shall not delay payment or raise objection for any reason whatever.
- 29.5. For fee-based contracts, any existing financial guarantee shall be released when the pre-financing is reimbursed in accordance with Article 28.1.
- 29.6. For global price contracts, the financial guarantee must remain in force until the final payment has been made.

## **ARTICLE 30. RECOVERY OF DEBTS FROM THE CONSULTANT**

- 30.1. The Consultant shall repay any amounts paid in excess of the final amount due to the Contracting Authority before the deadline indicated in the debit note which is 45 days from the issuing of that note.
- 30.2. Should the Consultant fail to make repayment within the above deadline; the Contracting Authority may increase the amounts due by adding interest:
- (a) at the rediscount rate applied by the central bank of the beneficiary country if payments are in the currency of that country,
- on the first day of the month in which the deadline expired, plus seven percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline, and the date on which the Consultant's account is debited. Any partial payments shall cover the interest thus established.
- 30.3. Amounts to be repaid to the Contracting Authority may be offset against amounts of any kind due to the Consultant. This shall not affect the right of the Consultant and the Contracting Authority to agree on repayment by instalments.
- 30.4. Bank charges arising from the repayment of amounts due to the Contracting Authority shall be borne entirely by the Consultant.

## **ARTICLE 31. REVISION OF PRICES**

Unless otherwise stipulated in the special conditions, the global price of a global price contract and the fee rates of a fee-based contract shall not be revised.

## **ARTICLE 32. PAYMENT TO THIRD PARTIES**

- 32.1. All orders for payments to third parties may be carried out only after an assignment made in accordance with Article 3.
- 32.2. Notification of beneficiaries of assignment shall be the sole responsibility of the Consultant.
- 32.3. In the event of a legally binding attachment of the property of the Consultant affecting payments due to it under the contract and without prejudice to the time limit laid down in Article 28, the Contracting Authority shall have 60 days, starting from the day when it receives notification of the definitive lifting of the obstacle to payment, to resume payments to the Consultant.

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

### **ARTICLE 33. BREACH OF CONTRACT**

- 33.1. Either party commits a breach of contract where it fails to discharge any of its obligations under the contract.
- 33.2. Where a breach of contract occurs, the party injured by the breach shall be entitled to the following remedies:
- (a) damages; and/or
- (b) termination of the contract.
- 33.3. Damages may be:
- (a) general damages; or

(b) liquidated damages.

33.4. In any case where the Contracting Authority is entitled to damages, it may deduct such damages from any sums due to the Consultant or call on the appropriate guarantee.

33.5. The Contracting Authority shall be entitled to compensation for any damage which comes to light after the contract is completed in accordance with the law governing the contract.

#### **ARTICLE 34. SUSPENSION OF THE CONTRACT**

34.1. Where the award procedure or performance of the contract is vitiated by substantial errors or irregularities or by suspected or proven fraud, the Contracting Authority shall suspend payments and/or execution of the contract.

34.2. Where such errors, irregularities or fraud are attributable to the Consultant, the Contracting Authority may in addition refuse to make payments or may recover amounts already paid, in proportion to the seriousness of the errors, irregularities or fraud. The Contracting Authority may also suspend payments in cases where there are suspected or established errors, irregularities or fraud committed by the Consultant in the performance of another contract funded by the budget of the ReSPA which are likely to affect the performance of the present contract.

34.3. The Contracting Authority may suspend the implementation of the contract when it considers such a suspension being in the interest of the project.

#### **ARTICLE 35. TERMINATION BY THE CONTRACTING AUTHORITY**

35.1. This contract shall terminate automatically if it has not given rise to any payment within a period of three years after its signature by both parties.

35.2. Termination shall be without prejudice to any other rights or powers under the contract of the Contracting Authority and the Consultant.

35.3. In addition to the grounds for termination defined in these General Conditions, the Contracting Authority may terminate the contract after giving 7 days' notice to the Consultant in any of the following cases:

- (a) the Consultant fails to carry out the services substantially in accordance with the contract;
- (b) the Consultant fails to comply within a reasonable time with the notice given by the Project Manager requiring it to make good the neglect or failure to perform its obligations under the contract which seriously affects the proper and timely performance of the services;
- (c) the Consultant refuses or neglects to carry out administrative orders given by the Project Manager;
- (d) the Consultant assigns the contract or sub-contracts without the authorisation of the Contracting Authority;
- (e) the Consultant becomes bankrupt or is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (f) the Consultant has been convicted of an offence concerning its professional conduct by a judgment which has the force of *res judicata*;
- (g) the Consultant has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;

- (h) the Consultant has been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the financial interests of the ReSPA;
- (i) following another procurement procedure or grant award procedure financed by the EU budget, the Consultant has been declared to be in serious breach of contract for failure to comply with its contractual obligations.
- (j) any organisational modification occurs involving a change in the legal personality, nature or control of the Consultant, unless such modification is recorded in an addendum to the contract;
- (k) any other legal disability hindering performance of the contract occurs;
- (l) the Consultant fails to provide the required guarantees or insurance, or the person providing the underlying guarantee or insurance is not able to abide by its commitments;
- (m) where after the award of the contract, the award procedure or the performance of the contract prove to have been subject to substantial errors, irregularities or fraud.

Prior to, or instead of, terminating the Contract as provided for in this Article, the Contracting Authority may suspend payments as a precautionary measure without prior notice.

- 35.4. The Contracting Authority may, thereafter, complete the services itself, or conclude any other contract with a third party, at the Consultant's own expense. The Consultant's liability for delay in completion shall immediately cease when the Contracting Authority terminates the Contracts without prejudice to any liability there under that may have already been incurred.
- 35.5. Upon termination of the contract or when it has received notice thereof, the Consultant shall take immediate steps to bring the services to a close in a prompt and orderly manner and in such a way as to keep costs to a minimum.
- 35.6. The Project Manager shall, as soon as is possible after termination, certify the value of the services and all sums due to the Consultant as at the date of termination.
- 35.7. The Contracting Authority shall not be obliged to make any further payments to the Consultant until the services are completed, whereupon the Contracting Authority shall be entitled to recover from the Consultant the extra costs, if any, of completing the services, or shall pay any balance due to the Consultant.
- 35.8. If the Contracting Authority terminates the contract, it shall without prejudice to its other remedies under the contract, be entitled to recover from the Consultant any loss it has suffered up to the value of the services which have not been satisfactorily completed unless otherwise provided for in the Special Conditions.
- 35.9. The Contracting Authority may, at any time and after giving the Consultant seven days' notice, terminate the contract, in addition to what is already provided for in Article 35.3.
- 35.10. Where the termination is not due to an act or omission of the Consultant, force majeure or other circumstances beyond the control of the Contracting Authority, the Consultant shall be entitled to claim in addition to sums owing to it for work already performed, an indemnity for loss suffered.

## **ARTICLE 36. TERMINATION BY THE CONSULTANT**

- 36.1. The Consultant may, after giving 14 days notice to the Contracting Authority, terminate the contract if the Contracting Authority:
  - (a) fails to pay the Consultant the amounts due under any certificate of the Project Manager

after the expiry of the time limit stated in Article 28; or

- (b) consistently fails to meet its obligations after repeated reminders; or
- (c) suspends the progress of the services or any part thereof for more than 90 days for reasons not specified in the contract, or not due to the Consultant's default.

36.2. Such termination shall be without prejudice to any other rights of the Contracting Authority or the Consultant acquired under the contract.

36.3. In the event of such termination, the Contracting Authority shall pay the Consultant for any loss or injury the Consultant may have suffered. Such additional payment may not be such that the total payments exceed the amount specified in Article 3 of the Special Conditions.

## **ARTICLE 37. FORCE MAJEURE**

37.1. Neither party shall be considered to be in breach of its obligations under the contract if the performance of such obligations is prevented by any circumstances of force majeure which arise after the date of notification of the award or the date when the contract becomes effective.

37.2. The term "force majeure", as used herein shall mean acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars, whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions, and any other similar unforeseeable events, beyond the control of either party and which by the exercise of due diligence neither party is able to overcome.

37.3. A party affected by an event of force majeure shall take all reasonable measures to remove such party's inability to fulfil its obligations hereunder with a minimum of delay.

37.4. Notwithstanding the provisions of Article 19 and Article 34, the Consultant shall not be liable for liquidated damages or termination for default if, and to the extent that, its delay in performance or other failure to perform its obligations under the contract is the result of an event of force majeure. The Contracting Authority shall similarly not be liable, notwithstanding the provisions of Article 28 and Article 36, to payment of interest on delayed payments, for non-performance or for termination by the Consultant for default, if, and to the extent that, the Contracting Authority's delay or other failure to perform its obligations is the result of force majeure.

37.5. If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations it shall notify the other party immediately giving details of the nature, the probable duration and likely effect of the circumstances. Unless otherwise directed by the Project Manager in writing, the Consultant shall continue to perform its obligations under the contract as far as is reasonably practicable, and shall seek all reasonable alternative means for performance of its obligations which are not prevented by the force majeure event. The Consultant shall not put into effect such alternative means unless directed so to do by the Project Manager.

37.6. For a fee-based contract, if the Consultant incurs additional costs in complying with the Project Manager's directions or using alternative means under Article 37.5 the amount thereof shall be certified by the Project Manager subject to the maximum contract value.

37.7. If circumstances of force majeure have occurred and persist for a period of 180 days then, notwithstanding any extension of the period of implementation of the tasks that the Consultant may by reason thereof have been granted, either party shall be entitled to serve upon the other 30 days' notice to terminate the contract. If at the expiry of the period of 30 days the situation of force majeure persists, the contract shall be terminated and, in consequence thereof, the parties shall be released from further performance of the contract.

## **ARTICLE 38. DECEASE**

- 38.1. If the Consultant is a natural person, the contract shall be automatically terminated if that person dies. However, the Contracting Authority shall examine any proposal made by his/her heirs or beneficiaries if they have notified their wish to continue the contract within 15 days of the date of decease. The decision of the Contracting Authority shall be notified to those concerned within 30 days of receipt of such a proposal.
- 38.2. If the Consultant is a group of natural persons and one or more of them die, a report shall be agreed between the parties on the progress of the services and the Contracting Authority shall decide whether to terminate or continue the contract in accordance with the undertaking given within 15 days of the date of decease by the survivors and by the heirs or beneficiaries, as the case may be. The decision of the Contracting Authority shall be notified to those concerned within 30 days of receipt of such a proposal.
- 38.3. Such persons shall be jointly and severally liable for the proper performance of the contract to the same extent as the Consultant. Continuation of the contract shall be subject to the rules relating to establishment of any guarantee provided for in the contract.

## **SETTLEMENT OF DISPUTES**

### **ARTICLE 39. SETTLEMENT OF DISPUTES**

- 39.1. The Parties shall make every effort to settle amicably any dispute relating to the contract which may arise between them.
- 39.2. Once a dispute has arisen, a Party shall notify the other Party in writing of the dispute, stating its position on the dispute and any solution which it envisages, and requesting amicable settlement. The other Party shall respond to this request for amicable settlement within 30 days, stating its position on the dispute. Unless the Parties agree otherwise, the maximum time period laid down for reaching an amicable settlement shall be 120 days from the date of the notification requesting such a procedure. Should a Party not agree to the other Party's request for amicable settlement, should a Party not respond in time to that request or should no amicable settlement be reached within the maximum time period, the amicable settlement procedure is considered to have failed.
- 39.3. In the absence of an amicable settlement, a Party may notify the other Party in writing requesting a settlement through conciliation by a third person.. The other Party shall respond to the request of conciliation within 30 days. Unless the Parties agree otherwise, the maximum time period laid down for reaching a settlement through conciliation shall be 120 days from the notification requesting such a procedure. Should a Party not agree to the other Party's request for conciliation, should a Party not respond in time to that request or should no settlement be reached within the maximum time period, the conciliation procedure is considered to have failed.
- 39.4. If amicable settlement procedure and, if so requested, the conciliation procedure fails, each party may refer the dispute to either the decision of a national jurisdiction or arbitration, as specified in Article 11 of the Special Conditions.

## B. II. TERMS OF REFERENCE

### Brief background relevant for the service

- ReSPA is an international organization, which has been entrusted with the mission of boosting up regional cooperation in the field of public administration in the Western Balkans, with its premises located in Danilovgrad.
- ReSPA employees 15 staff members, who will be provided with the mobile SIM cards and phone devices to cover official communication regarding mobile services

### Objective and expected results of the service

- Identify a unique mobile service provider who will ensure qualitative, safe and stable mobile signal coverage and services of the latest generation for ReSPA office requirements.
- Duration of the contract: Service contract is envisaged to be concluded for the 24 months of service delivery

*Tenderer needs to provide price without VAT for monthly subscription per package (cell phone number) which includes the following:*

1. Monthly subscription per package which includes minimum the following items:
  - a. Unlimited minutes /month or more free of charge minutes towards all networks in Montenegro.
  - b. Unlimited SMS towards all networks in Montenegro.
  - c. Unlimited calls and SMS within the group.
  - d. Unlimited 3G/4G Cell phone internet access – Full speed internet for at least 30GB/months or more.
  - e. 300 minutes or more free incoming calls in at least 4 ReSPA Members including **Albania, Bosnia and Herzegovina, Macedonia, Serbia**, and other EU countries.
  - f. Price per minute after spent minutes included in the subscription, towards national calls, mobile and landline networks, should be equal or lower than the lowest retail sales price per minute for the highest retail post-paid package.
  - g. Min 35 % lower process per minute rates for on-going international calls when calling from home network.
  - h. Special discounted offer for high class cell phone devices.
  - i. Min 10 % discount on the individual total roaming charges made out of home network for 7 or more cell phone numbers.



- j. Daily and weekly package for unlimited internet roaming access in at least 2 ReSPA Member and at least 10 other EU countries (along with minimum 2 required ReSPA members, other EU countries for which the package is requested are **Croatia, Netherlands, Hungary, Austria, Poland, Czech Republic, Greece, Slovakia, Bulgaria and Germany**). The Tenderers should provide fixed price per 1-7 days for unlimited internet roaming usage (variable/functional speed will be acceptable) usable in all 10 EU+minimum 2 offered ReSPA member countries) .
- k. Additional Benefits including:
  - i. At least 4 VIP SIM cards along with 4 free of charge flagship cell phone devices which should provide us with free of charge voice traffic toward all mobile and landlines in Montenegro.
  - ii. 200 free of charge outgoing minutes while in roaming on monthly basis for at least 1 VIP number.

The Tenderers should also provide the following documentation:

- a. *Montenegro coverage maps for mobile signal with coverage percentage of the whole territory.*
- b. *Proof that Tenderer has geo-redundancy Disaster Recovery Site that can take over full functionality of the system/service in case of a primary site failure.*

### Award criteria

The contract award criteria will follow the principle of the best value for money covering both the technical quality of offer and price. The best value for money is established by weighing technical quality against price on a basis of the ratio 60 % technical quality / 40 % price.

Overall single price (without VAT) per package/SIM card should be provided. The overall price will encompass all listed/required service. This package price will be applied to all 15 SIM cards, while the price for 4 VIP SIM cards with flagship devices shall be provided without or with minimum possible monthly charge.

## C.I.a.Service Tender submission form

Ref: ReSPA/CORE/SER/003-18

### PROVISION OF MOBILE COMMUNICATION SERVICE FOR RESPA SECRETARIAT

**One signed copy** of this tender submission form, a completed financial identification form and a completed legal entity file (only for the Leader) as well as declarations from the Leader and all members (in the case of a consortium) must be supplied, together with three copies. The attachments to this submission form (i.e. declarations, statements, proofs) may be in original or copy. If copies are submitted the originals must be dispatched to the Contracting Authority upon request. For economical and ecological reasons, we strongly recommend that you submit your files on paper-based materials (no plastic folder or divider). We also suggest you use double-sided print-outs as much as possible.

#### 1. SUBMITTED by (i.e. the identity of the Tenderer)

	Name(s) and address(es) of legal entity or entities submitting this tender
Leader <sup>1</sup>	
Member <sup>2</sup>	
Etc ...	

#### 2. CONTACT PERSON (for this tender)

Name	
Organisation	
Address	
Telephone	
Fax	
E-mail	

### 3. ECONOMIC AND FINANCIAL CAPACITY

Please complete the following table of financial data<sup>2</sup> based on your annual accounts and your latest projections. If annual accounts are not yet available for this year or last year, please provide your latest estimates, clearly identifying estimated figures in italics. Figures in all columns must be on the same basis to allow a direct, year-on-year comparison to be made (or, if the basis has changed, an explanation of the change must be provided as a footnote to the table). Any clarification or explanation which is judged necessary may also be provided.

Financial data	2 years before last year €	Year before last year €	Last year €	Average <sup>3</sup> €	This year €
Annual turnover <sup>4</sup> , excluding this contract					
Cash and cash equivalents <sup>5</sup> at beginning of year					
Net cash from / (used in) operating, investing & financing activities <sup>6</sup> excluding future contracts					
Net forecast cash from/ (used in) future contracts, excluding this contract					
Cash and cash equivalents <sup>6</sup> at end of year (i.e., the sum of the above three rows)					

### 4. STAFF RESOURCES

Please provide the following personnel statistics<sup>7</sup> for the current year and the two previous years.

Average manpower	Year before last		Last year		This year	
	Overall	Total for fields related to this contract <sup>8</sup>	Overall	Total for fields related to this contract <sup>9</sup>	Overall <sup>1</sup>	Total for fields related to this contract <sup>9</sup>
Permanent staff <sup>9</sup>						
Other staff <sup>10</sup>						
Total						
Permanent staff as a proportion of total staff (%)	%	%	%	%	%	%

## 5. FIELDS OF SPECIALISATION

Please use the table below whose objective is to indicate the relevant specialisms related to this contract of each legal entity making this tender, by using the names of these specialisms as the row headings and the name of the legal entity as the column headings. Show the relevant specialism(s) of each legal entity by placing a tick (✓) in the box corresponding to those specialisms in which the legal entity has significant experience. **Maximum 10 specialisms.**

	Leader	Member 2	Member 3	Etc ... <sup>11</sup>
Relevant specialism 1				
Relevant specialism 2				
Etc ... <sup>12</sup>				

## 6. EXPERIENCE

Please complete a table using the format below to summarise the major relevant projects related to this contract carried out in the course of the past 3 years<sup>12</sup> by the legal entity or entities making this application. The number of references to be provided must not exceed 15 for the entire tender

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

## 7. DECLARATION(S)

**As part of its tender, each legal entity identified under point 1 of this form, including every consortium member, must submit a signed declaration using the attached format.**

## 8. STATEMENT

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

- Technical report -Organisation and Methodology
- Tenderer's declaration (including one from every consortium member, in the case of a consortium)
- Duly authorised signature: an official document (statutes, power of attorney, notary statement, etc.) proving that the person who signs on behalf of the company/joint venture/consortium is duly authorised to do so.

We are fully aware that, in the case of a consortium, the composition of the consortium cannot be modified in the course of the tender procedure, unless the Contracting Authority gives its prior approval in writing. We are also aware that the consortium members would have joint and several liability towards the Contracting Authority concerning participation in both the above tender procedure and any contract awarded to us as a result of it.

This tender is subject to acceptance within the validity period stipulated in clause 5 of the Instructions to tenderers. Signed on behalf of the tenderer:

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

# FORMAT OF THE DECLARATION REFERRED TO IN POINT 7 OF THE TENDER SUBMISSION FORM

To be submitted on the headed notepaper of the legal entity concerned

<Date>

<Name and address of the Contracting Authority - see points 7 of the Instruction to tenderers >

**Your ref: < reference >**

Dear Sir/Madam

## **TENDERER'S DECLARATION**

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

- are submitting this tender **< on an individual basis \* / as member of the consortium** led by < name of the leader / ourselves > \* for this contract. We confirm that we are not participating in any other tender for the same contract, whatever the form of the application (as a member - including leader - in a consortium or as an individual Tenderer);
- are enrolled on the professional or trade registers of our State of establishment for the conduct of activities related to the subject of the present tender procedure, and in particular the following activities <indicate activities>
- are not in any of the situations excluding us from participating in contracts which are referred in **point 12 of the contract notice**;
- will inform the Contracting Authority immediately if there is any change in the above circumstances at any stage during the tender procedure or during the implementation of the tasks;
- fully recognise and accept that if we participate in spite of being in any of the situations listed in Section 2.2. of the ReSPA internal procurement procedure, we may be excluded from tender procedures and contracts in accordance with the Section 2.2.1. of the ReSPA internal procurement procedure. Furthermore, we acknowledge that, should we provide false declarations, make substantial errors or commit irregularities and fraud we may also be subject to financial penalties representing 2% to 10% of the total value of the contract being awarded. This rate may be increased to 4% to 20% in the event of a repeat offence within five years of the first infringement;

In the event that our tender is successful, we undertake, if required, to provide the proof usual under the law of the country in which we are established that we do not fall into the exclusion situations referred in point 12 of the Contract notice. The date on the evidence or documents provided will be no earlier than 1 year before the submission of the tender; in addition, we will provide a statement that our situation has not altered in the period which has elapsed since the evidence in question was drawn up. We also undertake, if required, to provide evidence of the financial and economic standing and the technical and professional capacity according to the selection criteria for this call for tender specified in the contract notice, point 16.

We also understand that if we fail to provide this proof within 15 calendar days after receiving the notification of award, or if the information provided is proved false, the award may be considered null and void.

Yours faithfully,

<Signature of authorised representative of the legal entity >

**< Name and position of authorised representative of the legal entity >**

- 
- <sup>1</sup> Add / delete additional lines for consortium members as appropriate.
  - <sup>2</sup> if this tender is being submitted by a consortium please add lines as required and indicate to which entity the data belongs. Last year = last accounting year for entity
  - <sup>3</sup> Amounts entered in the 'Average' column must be the mathematical average of the amounts entered in the three preceding columns of the same row.
  - <sup>4</sup> The gross inflow of economic benefits (cash, receivables, other assets) arising from the ordinary operating activities of the enterprise (such as sales of goods, sales of services, interest, royalties, and dividends) during the year.
  - <sup>5</sup> Cash and cash equivalents comprise cash on hand and demand deposits, together with short-term, highly liquid investments that are readily convertible to a known amount of cash, and that are subject to an insignificant risk of changes in value. An investment normally meets the definition of a cash equivalent when it has a maturity of three months or less from the date of acquisition. Equity investments are normally excluded, unless they are in substance a cash equivalent (e.g. preferred shares acquired within three months of their specified redemption date). Bank overdrafts which are repayable on demand and which form an integral part of an enterprise's cash management are also included as a component of cash and cash equivalents.
  - <sup>6</sup> Operating activities are the main revenue-producing activities of the enterprise that are not investing or financing activities, so operating cash flows include cash received from customers and cash paid to suppliers and employees. Investing activities are the acquisition and disposal of long-term assets and other investments that are not considered to be cash equivalents. Financing activities are activities that alter the equity capital and borrowing structure of the enterprise. Interest and dividends received and paid may be classified as operating, investing, or financing cash flows, provided that they are classified consistently from period to period. Cash flows arising from taxes on income are normally classified as operating, unless they can be specifically identified with financing or investing activities.
  - <sup>7</sup> if this tender is being submitted by a consortium, please add lines as required and indicate to which entity the data belongs.
  - <sup>8</sup> corresponding to the relevant specialisms identified in point 5 below.
  - <sup>9</sup> staff directly employed by the Tenderer on a permanent basis (i.e., under indefinite contracts).
  - <sup>10</sup> other staff not directly employed by the Tenderer on a permanent basis (i.e., under fixed-term contracts).
  - <sup>11</sup> add/delete additional lines and/or rows as appropriate. If this tender is being submitted by an individual legal entity, the name of the legal entity should be entered as 'Leader' (and all other columns should be deleted).
  - <sup>12</sup> In the case of framework contracts (without contractual value), only specific contracts corresponding to assignments implemented under such framework contracts shall be considered.
  - <sup>13</sup> Effect of inflation will not be taken into account.

## Annex C. I. b.

### TECHNICAL OFFER-TECHNICAL REPORT TENDER REF: ReSPA/CORE/SER/003-18

#### INVITATION TO TENDER FOR THE PROVISION OF MOBILE COMMUNICATION SERVICE FOR RESPA SECRETARIAT

(The present form shall be completed in every part by the tenderer and subscribed by person who is duly authorised to do so on behalf of the company/joint venture/consortium).

Mr/Ms \_\_\_\_\_, in person and legal representative of \_\_\_\_\_, (in case of joint bid specify all the members of the consortium), with reference to the "tender for the provision of mobile communication service for ReSPA Secretariat"

#### States

- A. That his tender complies with all the technical specifications concerning the provision of the Service as individuated in the Terms of Reference and or any other tender document, and in particular with all the minimal eligibility requirements provided in the Term of Reference.

With reference to the components of this Technical Report as provided under Paragraph Service requirements of the Terms of Reference, the tenderer submits the following offer which will eventually become part of the Contract:

#### B. Organisation and Methodology

*In this part the tenderer shall describe:*

##### 1. INFRASTRUCTURE AND INTERNAL ORGANISATION OF THE TENDERER

- Team size and composition and balance of skill mix of proposed team: profiles, team roles and responsibilities of all team members, including resource back-up, flexible working hours
- Any comments you have on the Terms of Reference for the successful execution of activities, in particular regarding the objectives and expected results, thus demonstrating the degree of understanding of the contract. Your opinion on the key issues related to the achievement of the contract objectives and expected results.

##### 2. CONFORMANCE WITH SERVICES REQUESTED

- Compliance of the ordering process and other process requirements stipulated in the TOR.

##### 3. QUALITY MANAGEMENT OF SERVICES PROVIDED

- Quality of the offer and accuracy of the description to provide the requested services and processes that ensure economy and efficiency of proposed fee.

\_\_\_\_\_(date)\_\_\_\_\_

\_\_\_\_\_(signature)\_\_\_\_\_



## C.II.FINANCIAL OFFER

TENDER REF: ReSPA/CORE/SER/003-18

### INVITATION TO TENDER FOR THE PROVISION OF MOBILE COMMUNICATION SERVICE FOR RESPA SECRETARIAT

**(The present form shall be completed in every part by the tenderer and subscribed by person who is duly authorised to do so on behalf of the company/joint venture/consortium).**

Mr/Ms \_\_\_\_\_, in person and legal representative of \_\_\_\_\_, (in case of joint bid specify all the members of the consortium), with reference to the provision of mobile communication service for ReSPA Secretariat, acknowledge that in accordance with the terms of reference:

- A) The price, not including VAT, shall be quoted as monthly subscription fee per package (cell phone number) defined under Paragraph Award Criteria of the Terms of Reference;

The offered price shall be inclusive of all costs relating to performance of the Contract, where not differently provided in the present Terms of Reference. It also includes administrative tasks, communications, taxes, social security contributions, insurance and any bank charges). Price must be expressed in Euros (EUR) and not include VAT.

Subject to the aforementioned conditions the offered prices, which will become part of the contract, are the following:

<b><i>Components Price/Service</i></b>	<b><i>Price offered (to be completed by the tenderer)</i></b>	<b><i>Points assigned (to be completed by the Contracting authority)</i></b>
Monthly subscription fee per package (cell phone number)		

\_\_\_\_\_(date)\_\_\_\_\_

\_\_\_\_\_(signature)\_\_\_\_\_

**Note:**

The above amount must not be broken down further.

## Administrative compliance grid

<b>Contract title:</b>	<b>Competitive Procedure for the provision of mobile communication services for ReSPA Secretariat</b>	<b>Reference :</b>	<b>ReSPA/CORE/SER/003-18</b>
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Tender envelope number	Tenderer's name (Leader)	Other members of the consortium if any Name	Within deadline ?	Tender submission form duly completed and only 1 tender per tenderer?	Tenderer's declaration (signed by each consortium member, if appropriate)?	Language as required?	Economic & financial capacity? (OK/a/b/...) <sup>1</sup>	Professional capacity? (OK/a/b/...) <sup>2</sup>	Technical capacity? (OK/a/b/...) <sup>2</sup>	Technical report exists?	Overall decision? (Accept / Reject)
1											
2											
3											

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

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

The maximum scores must correspond to the evaluation grid included in the tender dossier

## EVALUATION GRID

To be completed for each tender by each evaluator

### Organisation and Methodology

	Maximum	Final assessment	Notes
1. INFRASTRUCTURE AND INTERNAL ORGANISATION OF THE TENDERER	60 pts		
2. CONFORMANCE WITH SERVICES REQUESTED	30 pts		
3. QUALITY MANAGEMENT OF SERVICES PROVIDED	10 pts		
<b>Total score for organisation and methodology</b>	<b>100 pts</b>		

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

Evaluation performed by:

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

## INSTRUCTIONS TO EVALUATORS

Each evaluator must make an initial assessment of the technical offers and award scores on each sub-criterion according to his/her assessment.

Each evaluator should be able to justify his/her assessment and scores in a meeting of the Evaluation Committee. The justifications must relate to the description of the needs in the terms of reference. Evaluators, where possible, must therefore make comments in the strengths and weaknesses boxes.

The assessments made will be discussed in the evaluation meeting(s) and each evaluator may make adjustments to the initial assessments after this discussion.

Any adjustments or revised score must be justified and recorded in the evaluation report.

The final score will be given by the average of scores indicated by each evaluator

## FINANCIAL IDENTIFICATION

<b>ACCOUNT NAME (3)</b>			
ACCOUNT NAME (1)	<input style="width: 95%;" type="text"/>		
	<input style="width: 95%;" type="text"/>		
ADDRESS	<input style="width: 95%;" type="text"/>		
	<input style="width: 95%;" type="text"/>		
TOWN/CITY	<input style="width: 60%;" type="text"/>	POSTCODE	<input style="width: 20%;" type="text"/>
COUNTRY	<input style="width: 95%;" type="text"/>		

**(1) The name or title under which the account has been opened and not the name of the authorized agent**

CONTACT	<input style="width: 95%;" type="text"/>		
TELEPHONE	<input style="width: 40%;" type="text"/>	FAX	<input style="width: 40%;" type="text"/>
E - MAIL	<input style="width: 95%;" type="text"/>		

<b><u>BANK</u></b>			
BANK NAME	<input style="width: 95%;" type="text"/>		
	<input style="width: 95%;" type="text"/>		
BRANCH ADDRESS	<input style="width: 95%;" type="text"/>		
	<input style="width: 95%;" type="text"/>		
TOWN/CITY	<input style="width: 60%;" type="text"/>	POSTCODE	<input style="width: 20%;" type="text"/>
COUNTRY	<input style="width: 95%;" type="text"/>		
ACCOUNT NUMBER	<input style="width: 95%;" type="text"/>		
IBAN (2)	<input style="width: 95%;" type="text"/>		

**(2) If the IBAN Code (International Bank account number) is applied in the country where your bank is situated**

**REMARKS :**

BANK STAMP + SIGNATURE OF BANK REPRESENTATIVE (Both obligatory) (3)	DATE + SIGNATURE OF ACCOUNT HOLDER: (Obligatory)

**(3) It is preferable to attach a copy of recent bank statement. Please note that the bank statement has to provide all the information listed above under 'ACCOUNT NAME' and 'BANK'. In this case, the stamp of the bank and the signature of the bank's representative are not required. The signature of the account-holder is obligatory in all cases.**

## LEGAL ENTITIES

### PRIVATE COMPANIES

<b>TYPE OF COMPANY</b>	<input style="width: 100%;" type="text"/>		
<b>NGO</b>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	(Non-Governmental Organisation)
<b>NAME(S)</b>	<input style="width: 100%;" type="text"/>		
	<input style="width: 100%;" type="text"/>		
	<input style="width: 100%;" type="text"/>		
	<input style="width: 100%;" type="text"/>		
<b>ABBREVIATION</b>	<input style="width: 100%;" type="text"/>		
<b>ADDRESS OF HEAD OFFICE</b>	<input style="width: 100%;" type="text"/>		
	<input style="width: 100%;" type="text"/>		
	<input style="width: 100%;" type="text"/>		
<b>POSTCODE</b>	<input style="width: 150px;" type="text"/>	<b>P.O. BOX</b>	<input style="width: 100px;" type="text"/>
<b>TOWN/CITY</b>	<input style="width: 100%;" type="text"/>		
<b>COUNTRY</b>	<input style="width: 100%;" type="text"/>		
<b>VAT (1)</b>	<input style="width: 300px;" type="text"/>		
<b>PLACE OF REGISTRATION</b>	<input style="width: 400px;" type="text"/>		
<b>DATE OF REGISTRATION</b>	<input style="width: 30px;" type="text"/>	<input style="width: 30px;" type="text"/>	<input style="width: 50px;" type="text"/>
	D D	M M	Y Y
<b>REGISTRATION No (2)</b>	<input style="width: 400px;" type="text"/>		
<b>PHONE</b>	<input style="width: 200px;" type="text"/>	<b>FAX</b>	<input style="width: 200px;" type="text"/>
<b>E-MAIL</b>	<input style="width: 400px;" type="text"/>		

**THIS "LEGAL ENTITIES" FORM SHOULD BE COMPLETED AND RETURNED TOGETHER WITH:**

1. A COPY OF THE VAT REGISTRATION DOCUMENT IF APPLICABLE AND IF THE VAT NUMBER DOES NOT APPEAR ON THE OFFICIAL DOCUMENT REFERRED TO AT 2 BELOW.
2. A COPY OF SOME OFFICIAL DOCUMENT (OFFICIAL GAZETTE, COMPANY REGISTER ETC.) SHOWING THE NAME OF THE LEGAL ENTITY, THE ADDRESS OF THE HEAD OFFICE AND THE REGISTRATION NUMBER GIVEN TO IT BY THE NATIONAL AUTHORITIES.

**DATE AND SIGNATURE OF AUTHORISED REPRESENTATIVE**

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## LIST OF ENTITIES INVITED TO SUBMIT A TENDER

Based on conducted market research

### INVITATION TO TENDER FOR THE AWARD OF A CONTRACT FOR THE PROVISION OF MOBILE COMMUNICATION SERVICE FOR RESPA SECRETARIAT

**Danilovgrad, Montenegro (MNE)**

**1. Crnogorski Telekom T-Com**  
[Rados.banovic@telekom.me](mailto:Rados.banovic@telekom.me)

**2. Telenor**  
[biznis@telenor.me](mailto:biznis@telenor.me)

**3. Mtel**  
[biznis.prodaja@mtel.me](mailto:biznis.prodaja@mtel.me)