

DRAFT CONTRACT

SERVICE CONTRACT FOR EUROPEAN UNION EXTERNAL ACTIONS

N° MASAR-LB-PCPM-010-SR/2021

PROJECT TITLE: "MASAR, MAINTAINING STRENGTH AND RESILIENCE FOR LOCAL GOVERNMENTS"

FINANCED FROM THE MASAR FOR LOCAL GOVERNMENTS - MAINTAINING STRENGTH AND
RESILIENCE FOR LOCAL GOVERNMENTS IN IRAQ AND LEBANON(EU_TF-
MADAD/2018/T04.136)

CONTRACT FOR EXPERT IN ROAD SAFETY DESIGN AND WORKS SUPERVISION

On one hand, **XXXXX**, representing the *Polskie Centrum Pomocy Międzynarodowej* (in English, Polish Centre for International Aid), on behalf and to the account of PCPM Lebanon, hereinafter referred to individually and collectively as "PCPM"), with fiscal identification number 5252371402, with the registered address in ul. Sarmacka 14/15, 02-972, Warsaw, Poland; ('the Contracting Authority').

On the other hand, -----, with fiscal identification number -----, with registered address in -----, Lebanon; ('the Contractor').

Have agreed as follows:

(1) Subject

- 1.1 The subject of this Contract is to provide a service of an Expert in Road Safety Design and Works Supervision done in Lebanon with identification number MASAR-LB-PCPM-010-SR/2021 ('the services').
- 1.2 The contractor shall execute the tasks assigned to him/her in accordance with the Terms of Reference annexed to the Contract (Annexe II)

(2) Contract value

This Contract, established in Euro is a global price contract. The maximum contract value is **XXX[EUR]** This price should include all costs incurred by the Expert to perform the services.

The Expert shall submit to PCPM Project Manager or Front Officer an invoice by email detailing the services performed and the amount due.

The payment of the amount will be ordered, upon confirmation of the corresponding invoice by the Financial Department of PCPM and confirmation by PCPM staff responsible of contracting the services.

Payments will be made by bank transfer to the following account:

Account Holder	
----------------	--

Account Number	
IBAN	
Swift Code	
Bank	
Branch	

(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 Terms of Reference

These above listed documents make up the contract. They shall be deemed to be mutually explanatory. In cases of ambiguity or divergence, they shall prevail in the order in which they appear above. Addenda shall have the order of precedence of the document they are amending.

(4) Confidential information

In this Agreement the term “Confidential Information” shall mean the Work Product and all information relating to all PCPM activities, including, but not limited to, research, developments, product plans, products, services, diagrams, formulae, processes, techniques, technology, firmware, software, know-how, designs, ideas, discoveries, inventions, improvements, copyrights, trademarks, trade secrets, customers, suppliers, markets, marketing, finances disclosed by PCPM either directly or indirectly in writing, orally or visually, to the Expert

Confidential Information does not include information which:

- Is in or comes into the public domain without breach of this Agreement by the Expert,
- Was in the possession of the Expert prior to receipt from PCPM and was not acquired by the Expert from PCPM under an obligation of confidentiality or non-use,
- Is acquired by the Expert from a third party not under an obligation of confidentiality or non-use to PCPM, or
- Is independently developed by the Expert without use of any Confidential Information of the Company.

Obligations of Non-Disclosure and Non-Use: Unless otherwise agreed to in advance and in writing by PCPM, the Expert will not, except as required by law or court order, use the Confidential Information for any purpose whatsoever other than the performance of the Services or disclose the Confidential Information to any third party.

The Expert may disclose the Confidential Information only to those of its employees who need to know such information. In addition, prior to any disclosure of such Confidential Information to any such employee, such employee shall be made aware of the confidential nature of the Confidential Information and shall execute, or shall already be bound by, a non-disclosure agreement containing terms and conditions consistent with the terms and conditions of this Agreement.

In any event, the Expert shall be responsible for any breach of the terms and conditions of this Agreement by any of its employees. The Expert shall use the same degree of care to avoid disclosure of the Confidential Information as it employs with respect to its own Confidential Information of like importance, but not less than a reasonable degree of care.

Upon the termination or expiration of this Agreement for any reason, or upon PCPM earlier request, the Expert will deliver to PCPM all of PCPM's property or Confidential Information in tangible form that PCPM may have in its possession or control. The Expert may retain one copy of the Confidential Information in its legal files.

(5) Treatment of personal data

The execution of the object of the Agreement implies the treatment of personal data. The Expert should undertake all measures to comply with the protection of personal data to which it has access on the occasion of the contract; and in accordance with the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and the free circulation of these data and which repeals Directive 95/46/ EC, hereafter RGPD.

Under the abovementioned European Regulation, the Expert is considered as in charge of data treatment. For these purposes, the Expert and the PCPM will sign a contract for the treatment of personal data.

(6) Transparency and compliance of ethical principles of procedures

1. Both Parties will adopt ethically exemplary behaviour and act to prevent corruption in any of its possible forms.

2. In this sense and in addition to those other duties linked to the principle of action mentioned in the previous point, derived from the ethical principles and the rules of conduct to which the Expert must adapt their activity, the Expert assumes particularly the following obligations:

- a) During the performance of the services and thereafter, all documents and information provided by PCPM with regards to the services shall be kept confidential by the Expert at all times except where PCPM instructs to disclose or consents to disclose the information to perform the scope of legal services for the matter.
- b) Not requesting, directly or indirectly, that a public employee influences in the award of the Agreement in his own interest.
- c) Not offering or facilitating personal or material benefits, either for those persons or persons linked to their family or social environment, to public employees.
- d) Do not perform any other action that could violate the principles of equal opportunities and free concurrence.
- e) Do not carry out actions that put the public interest at risk.
- f) Respect the principles of free market and competitive concurrence, and refrain from carrying out behaviours that have the purpose or could have the effect of preventing, restricting or distorting competition, such as collusive behaviours or fraudulent competition (offers of protection, elimination of offers, allocation of markets, rotation of offers, etc.). Likewise, denounce any act or conduct aimed at those purposes and related to the tender or the Agreement of which he had knowledge.
- g) Do not use confidential information, known through the Agreement, to obtain, directly or indirectly, an advantage or economic benefit in your own interest.

- h) Observe the principles, norms and ethical standards inherent in the activities, trades and/or professions corresponding to the services contracted.
- i) Collaborate with the PCPM in the actions that it performs to monitor and/or evaluate compliance with the Agreement, particularly by providing the information requested for these purposes.
- j) Report the acts that are known to them and that may violate the obligations contained in this Clause.
- k) record and report to the contracting authority any problem that affects its ability to provide the services. The report must describe the problem, state when it started and what action the contractor is taking to resolve it.

3. Failure to comply with any of the obligations contained in the previous point 2 by the Expert shall be the cause of the resolution of the Agreement, without prejudice to any other possible consequences foreseen in the current legislation.

(7) Language of the contract

The language of the contract and of all written communications between the Contractor and the Contracting Authority and/or the Project Manager shall be English.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to sign this AGREEMENT in English in three originals- one original for the contracting authority, one original for the European Commission, and one original for the contractor.

For the Contractor

Name:

Title: Expert

Signature:

Date:

For the Contracting Authority

Name:

Title:

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. Exceptionally, and with the approval of the competent European Commission departments, other clauses can be indicated to cover particular situations.

Article 1 Communications

- 1.1 Project Manager: jbyszewska@pcpm.org.pl
Front Officer: dmichalak@pcpm.org.pl

Article 2 Subcontracting

- 2.1 Subcontracting is not allowed.

Article 3 General Obligations

- 3.1 The logo of the European Commission should be visible in all the related documents and visibility items.

Article 4 Implementation of the tasks and delays

- 4.1 The start date for implementation shall be date of signature of the contract by both parties.
4.2 The period for implementing the tasks is 80 days from the start date.

Article 5 Liability

- 5.1 The contracting authority is not liable for any damage or loss caused by the contractor, including any damage or loss to third parties during or as a consequence of performance of the contract.
5.2 The contractor is liable for any loss or damage caused to the contracting authority during or as a consequence of performance of the contract, but only to an amount not exceeding three times the total amount of the contract. However, if the damage or loss is caused by the gross negligence or wilful misconduct of the contractor, as well as in the case of an action brought against the contracting authority by a third party for breach of its intellectual property rights, the contractor is liable for the whole amount of the damage or loss.
5.3 The contracting authority is not liable for any loss or damage caused to the contractor during or as a consequence of performance of the contract, unless the loss or damage was caused by wilful misconduct or gross negligence of the contracting authority.

Article 6 Force Majeure

- 6.1 If a party is affected by force majeure, it must immediately notify the other party, stating the nature of the circumstances, their likely duration and foreseeable effects.
6.2 A party is not liable for any delay or failure to perform its obligations under the contract if that delay or failure is a result of force majeure. If the contractor is unable to fulfil its contractual obligations owing to force majeure, it has the right to remuneration only for the services actually provided.

Article 7 Delay in delivery

If the contractor fails to perform its contractual obligations within the applicable time limits set out in this contract, the contracting authority may claim liquidated damages for each day of delay using the following formula:

$0.3 \times (V/d)$, where

V is the price of the deliverable or result or, failing that, the amount specified in the purchase order;

d is the duration specified in the contract for delivery of the relevant deliverable or result or, failing that, the duration of performance of the contract specified in the purchase order, expressed in days.

Liquidated damages may be imposed together with a reduction in price under the conditions laid down in Article 5.3.

Article 8 Interim and Final Reports

8.1 The Contractor shall submit reports as specified in the Terms of Reference to Project manager and Front Officer email addresses with an electronic proof of delivery.

8.2 The Contracting Authority shall, within 45 days of receipt, notify the Contractor of its decision concerning the documents or reports received by it, giving reasons should it reject the reports or documents, or request amendments. If the Contracting Authority does not give any comments on the documents or reports within the time limit, the Contractor 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 Contractor of any comments within 45 days of the receipt of the report.

8.3 If the contractor fails to provide the service in accordance with the contract ('unperformed obligations') or if it fails to provide the service in accordance with the expected quality levels specified in the Terms of Reference ('low quality delivery'), the contracting authority may reduce or recover payments proportionally to the seriousness of the unperformed obligations or low quality delivery. This includes in particular cases where the contracting authority cannot approve a result, report or deliverable as defined in the purchase order after the contractor has submitted the required additional information, correction or new version.

A reduction in price may be imposed together with liquidated damages under the conditions of Article 7.

Article 9 Payment and interest on late payment

9.1 Payments shall be made in EUR into the bank account notified by the Contractor to the Contracting Authority.

9.2 The Contracting Authority is not responsible for the currency conversion rate in the case of the Contractor having a non-Euro account.

9.3 Payments shall be authorised by PCPM office in Lebanon and made by PCPM Financial Office.

Payments will be made in accordance with the following the option:

		[EUR]
After completion of first 30 days of activities described in ToR	First instalment – 38%	<XXXXX>
After completion remaining 50 days of activities described in ToR	Final payment – 62%	<XXXXX>
	Total	<maximum contract value>

Article 10 Costs of transfers

The costs of the transfer are borne as follows:

- 10.1 The Contracting Authority bears the costs of dispatch charged by its bank.
- 10.2 The Contractor bears the costs of receipt charged by its bank.
- 10.3 The party causing repetition of the transfer bears the costs for repeated transfer.

Article 11 Termination of the contract

- 11.1 The Contracting Authority may terminate the contract in the following circumstances:
 - a) provision of the services under an on-going contract has not actually started within 10 days of the scheduled date and the contracting authority considers that the new date proposed, if any, is unacceptable,
 - b) if the contractor does not perform the contract in accordance with the tender specification or is in breach of another substantial contractual obligation
 - c) if the contractor is in a situation that could constitute a conflict of interest or a professional conflicting interest
 - d) in the event of force majeure, where either resuming implementation is impossible or the necessary ensuing amendments to the contract would mean that the tender specifications are no longer fulfilled or result in unequal treatment of tenderers or contractors;
- 11.2 The contractor may terminate the contract if the contracting authority fails to comply with its obligations, in particular the obligation to provide the information needed for the contractor to perform the contract as provided for in the tender specifications.
- 11.3 A party must formally notify the other party of its intention to terminate the contract and the grounds for termination.
- 11.4 Within 40 days of the date of termination, the contractor must submit any report, deliverable or result and any invoice required for services that were provided before the date of termination.

11.5 The contractor is not entitled to compensation for any loss resulting from the termination of the contract, including loss of anticipated profits, unless the loss was caused by the situation specified in Article 11.2.

Article 12 Settlement of disputes

12.1 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.

Article 13 Further additional clauses

Nil.

* * *