

SERVICE AGREEMENT

Reference number: CTR 1104.C

**Consultancy services for Identification of Project
Opportunities on Sustainable Water Management and
Infrastructure in Turkey**

By and between:

L'Agence Française de Développement (AFD) A French public entity having its registered office at 5 rue Roland Barthes, 75012 Paris, registered with the Paris Trade and Companies Register under no. B 775 665 599, represented by Tanguy DENIEUL acting pursuant to the powers granted to him/her for this purpose,

hereinafter referred to as '**AFD**',

And

[Name of the Service Provider]

having its registered office at _____, registered with the _____ Trade and Companies Register under no. _____ represented by _____, duly authorised for the purposes hereof pursuant to a decision of _____ on _____,

Hereinafter referred to as the '**Service Provider**'.

The foregoing are referred to individually or jointly hereinafter as the 'Party' or the 'Parties'.

Recitals

Agence Française de Développement is a French public, industrial and commercial entity governed by French banking law in its capacity as a specialised financial institution.

In the context of French government development aid, it is responsible for financing the economic and social development of almost 80 developing countries and overseas territories, by long-term loans and/or subsidies.

It has drawn up a charter of professional ethics which is available on AFD's website at www.afd.fr.

It has been agreed as follows

Article 1. Definitions

Terms and expressions starting with a capital letter shall have the following meanings for the purposes of the Agreement.

Acts of Corruption

Refers to the offences set out in Articles 432-11, 433-1, 445-1 and 445-2 of the French Criminal Code (*Code pénal*).

Appendix

Refers to any appendix to the Agreement. The Appendices form an integral part of the Agreement.

Anticompetitive Practices

Refer to concerted practices, agreements, express or tacit anticompetitive practices or coalitions, including through the intermediary, whether directly or indirectly, of a company within a group located in any country within the meaning of Article 420-1 of the French Commercial Code (*Code de commerce*), in particular where said practices have or may have the effect of preventing, restricting or distorting competition within a market, especially where they may entail:

- limiting access to a market or hindering the exercise of free competition by other companies;
- hindering the setting of prices by market forces by artificially promoting higher or lower prices;
- limiting or controlling production, market opportunities, investments or technical progress;
- sharing markets or sources of supply.

Confidential Information

Refers to:

- any information, data or documents of any kind, regardless of the form or medium thereof, including, without being limited to, any written document, memorandum, report, document, research, analysis, drawing, letter, list, software program or content of data stored on a USB memory stick, specifications, figures or graphs transmitted by AFD to the Service Provider in the context of the Agreement;
- the Agreement (including any information obtained during the negotiation and/or performance hereof) and, more generally, any information or document that the Service Provider could have obtained, directly or indirectly, in writing or in any other way, from AFD for the requirements of or at the time

- of the Agreement, including, without being limited to, any technical, commercial, strategic or financial information, research, specifications, software programs or products;
- the Services (including the reports, works and research created or performed pursuant to the Services) and any information related thereto.

Staff

Refers to the Service Provider's staff assigned by said Service Provider to perform the Services.

Services

Refer to all the duties, activities, services (*services*), deliverables and services (*prestations*) to be performed by the Service Provider pursuant to the Agreement.

Article 2. Purpose of the Agreement and contract documents**2.1 Purpose of the Agreement**

The purpose of the agreement is to provide consultancy service to AFD to prepare an analytical and strategic report, which identifies the needs and priority actions required by Turkey to further sustainable policies and practices in the field that are in convergence with the priorities of the EU and the UN policy framework.

The description of requirements is given in appendix one - **TERMS OF REFERENCE**.

2.2 Documents that form the Agreement

1. The Agreement
2. The terms of reference of the Services (Appendix 1)
3. The financial proposal (Appendix 2) : décomposition du prix global et forfaitaire
4. The commercial proposal submitted by the Service Provider and accepted by the Parties, including description of the staff and the duties and responsibilities of each member of said Staff as regards the Services (Appendix 3)
5. Social and Environmental Responsibility (Appendix 4)

In the event of any discrepancy between the various documents, the order of precedence of the documents shall be as follows: the Agreement, the terms of reference, the document entitled 'Social and Environmental Responsibility' and the commercial proposal.

Article 3. Performance of the Services**3.1. Resources to be used**

In the context of the performance of the Agreement, the Service Provider shall use all its knowhow and skills to perform the Services. It shall provide all the logistics and equipment required to perform the Services properly.

The Service Provider shall perform the Services professionally and in accordance with good practice.

The Service Provider shall allocate the appropriate Staff to carry out the various assignments required to perform the Services properly. The names of the members of Staff, including their duties and responsibilities in view of the Services, are shown in Appendix 2. The Service Provider shall provide AFD with the curriculum vitae of the members of its Staff allocated accordingly.

The Staff shall work under the supervision and under the legal, hierarchical and disciplinary responsibility of the Service Provider. The Service Provider therefore undertakes to carry out all the applicable formalities in view of the regulations in force that apply to employers, relating in particular to employment law, social security coverage and tax obligations. The Staff shall in all circumstances remain solely under the authority of the Service Provider and shall report on their activities solely and directly to the Service Provider.

The Service Provider undertakes to do whatever may be necessary to enable the Staff to carry out their assignments, both in France and in the country in which the work is performed. It shall in particular carry out the administrative formalities required for the Staff, obtain visas and any document required in view of local regulations. The Service Provider also undertakes (i) that it will have taken all the necessary measures (insurance, additional health and social security coverage, etc.) to assist the Staff in the event of any local problems, such as, for example, evacuation for health-related or political reasons and (ii) to provide all technical assistance the Staff may require in the context of the assignment.

The Service Provider may replace one or more member(s) of Staff in the event of any failure of said member(s) to perform as required provided that (i) the qualifications of the employee(s) proposed to replace him/her/them are equivalent to or higher than those of the employee(s) to be replaced, (ii) that this replacement does not entail any delays for AFD in view of the Service performance schedule, and (iii) that it has obtained AFD's prior written consent to the employee(s) proposed. In this case, the replacement shall take place immediately. The Service Provider shall bear all related costs.

3.2. Place of performance of the Services

The place where the Services are to be performed shall be: Turkey

3.4. Penalties for late performance

Any late performance that has not been expressly approved by AFD may give rise to penalties for late performance payable by the Service Provider in an amount of one hundred (100) euros per calendar day late, from receipt of formal notice served by AFD on the Service Provider by recorded delivery letter with advice of receipt (*lettre recommandée avec AR*), where the late performance has not been remedied. AFD shall deduct the amount of the penalties for late performance from the amount of the balance to be paid and the remainder, if any, shall be paid by the Service Provider to AFD at the latter's first request.

Payment of these penalties shall not hinder the automatic termination of the Agreement without compensation for reasons attributable to the Service Provider.

3.5. Monitoring the performance of the Services

AFD will be responsible for checking reports submitted and approving them. If a report is not approved, it will send its observations/comments to the Service Provider within the period stipulated in appendix one.

[Name] shall be the Service Provider's contact. AFD shall send him/her its observations, recommendations or decisions and/or shall reply to his/her requests. He/She can be reached at the following address [postal address] and at [email address].

The Service Provider undertakes to take into account any recommendations and to make the changes requested, in accordance with the Agreement and the Appendices hereto.

Article 4. Remuneration of the Service Provider

4.1. Fixed remuneration

In remuneration for the proper performance of the Services pursuant to the Agreement, AFD shall pay the Service Provider a total fixed amount of EUR 90.000 (ninety thousand euros) **including all taxes**.

The Service Provider's remuneration shall be paid as follows:

- 40 % of the contract amount upon approval of the Inception Report (TASK 1) by AFD.
- 40 % of the contract amount upon approval of the chapters with regards to TASK 2, TASK 3 TASK 4 and TASK 6 by AFD.
- 20 % of the contract amount upon approval of the chapters with regards to TASK 7 by AFD.

Please, note that TASK 5 aims at carrying out stakeholder meetings which is embedded in all activities. Hence, is not tied to any payments.

This price is fixed and cannot be changed during the term of the Agreement. This price is deemed to be the full price. It includes, in particular, any tax charges, workshop, charges similar to tax charges or any other charges to which the Services are mandatorily subject. This fixed amount shall cover all the Services described in Appendix 1, including all fees, costs, charges and various expenses linked to the Services.

4.2. Terms and conditions of payment

Payments shall be made by bank transfer to the following account held by the Service Provider:

- name of account holder: _____
- bank: _____ branch: _____
- address: _____
- account number (with identification code): _____

Payments shall be made following the submission of an invoice and the following documents as described and in accordance with the schedule set out above. Two (2) copies of the invoices shall be issued and they shall be in French.

Invoices shall be sent to:

Agence Française de Développement İrtibat Bürosu
(Fransız Kalkınma Ajansı)

Esentepe Mah. Büyükdere Cad. No :175A
34394 Şişli/ İstanbul
Vergi Dairesi: Zincirlikuyu
VKN: 0080641520

Payments shall be made within a period of 30 days from the end of the month in which the invoice and the aforementioned documents have been received, subject to the approval of the report that is the subject of the invoice.

Article 5. Intellectual property

5.1. Assignment of copyright

The Service Provider assigns the rights over the Services, and over any element of the Services which forms part or all of said Services, solely to AFD. It irrevocably assigns to AFD, exclusively, worldwide and for the legal term of copyright protection, the rights to exploit, represent, reproduce and adapt, whether for business purposes and/or otherwise, that it holds over the reports, works, research and documents provided or performed pursuant to the Services (hereinafter the ‘Assignment’).

More specifically, the Assignment includes the rights:

1. to use, reproduce, keep, distribute, transmit, perform, translate, exploit, circulate and represent the Services,
2. for promotional purposes, for commercial or non-commercial, public or private purposes and in particular but without being limited to exhibitions, operations involving the provision of information or public relations operations,
3. in whole or in part, on any existing or future medium, and in particular on paper, optical, digital or magnetic media or on any computerised, electronic or telecommunications media.

The Assignment shall take place as and when the reports, works, research and documents are produced or performed by the Service Provider pursuant to the Services.

The Service Provider also acknowledges that AFD shall have the right to transfer the right to use the reports, works, research and documents produced or performed by the Service Provider in the context of the Agreement to any third party.

5.2. Warranty of Assignment

Throughout the term of the Assignment, the Service Provider (i) undertakes to refrain from distributing the Services on any medium whatsoever without AFD’s agreement and (ii) warrants full enjoyment of the ownership of the rights hereby assigned to AFD. The Service Provider shall hold AFD harmless from and against any outstanding circumstances, claims or dispossession whatsoever. In particular, the Service Provider warrants that it duly and properly acquired all rights, in particular intellectual property rights, required for the Assignment.

The Service Provider shall therefore hold AFD harmless from and against any action, claim, demand or objection from any person on the grounds of a property right, in particular an intellectual property right, an act of unfair competition or undue enrichment (*acte parasitaire*), which the Assignment may be asserted to breach.

The Service Provider warrants that the Services contain nothing that could constitute a breach of current laws and regulations, in particular relating to libel or slander (*diffamation*) and insults, breach of privacy, image rights, indecent behaviour, copyright violation or plagiarism.

5.3. Remuneration of the Assignment

The fixed and final price of the Assignment is included in the remuneration described in Article 4 of the Agreement. The Service Provider acknowledges that it is aware thereof and shall not be entitled to claim any further amount for the Assignment.

Article 6. The Service Provider's undertaking in respect of an Essential Outsourced Service

The Agence Française de Développement (“AFD”) is subject to regulations on the outsourcing of essential or important services or other operational tasks set out in the *French Order of 3 November 2014 on the internal control of companies in the banking, payment services and investment services sector subject to the supervision of the French Prudential Supervisory and Resolution Authority (“ACPR”)* and the guidelines of the European Banking Authority (“EBA”) *on outsourcing arrangements of 25 February 2019 (EBA/GL/2019/02)* with which the ACPR has represented that it fully complies¹. In this respect, in relation to the services or other tasks and functions that the AFD entrusts to the Service Provider and that it categorises in advance as essential, critical or important (the “Service(s)”), the Parties agree to the regime set out below. The Service Provider undertakes to comply with its obligations under this regime. The Service Provider shall carry out the Services entrusted to it by the AFD diligently and in accordance with applicable regulations and the regime set out below:

a) Expected quality level of service

The Service Provider commits to the level of service agreed with the AFD², which is consistent with normal operation of the service.

In this respect, the Service Provider undertakes to comply with the quality indicators defined with the Agence Française de Développement based on the nature of the Service and appended to this Contract.

In the event of an incident (in particular in the event of a deterioration in the agreed level of service), the Service Provider undertakes to use the back-up mechanisms referred to in paragraph b) *Continuity of service activity* below.

The Agence Française de Développement may check - at any time during the period in which the Service is provided - that the expected quality level is being achieved.

The Service Provider undertakes to notify the AFD of any event that may have a material impact on its ability to effectively deliver the Service at the agreed service levels and in accordance with applicable laws and regulatory requirements.

¹ ACPR, 15 July 2019, *Notice of compliance with the European Banking Authority (EBA) 's guidelines on outsourcing (EBA-GL-2019-02)*.

² The level of service expected by the Agence Française de Développement is appended to the Contract.

b) Service continuity

The Service Provider undertakes to implement back-up mechanisms in the event of any serious difficulty affecting continuity of the service.

A detailed description of these back-up mechanisms is appended to this Contract and covers, in particular, the following:

- the emergency business continuity plan for the service, which must cover the following five circumstances:
 - Loss/unavailability of the Service Provider's premises,
 - Loss/unavailability of the Service Provider's information system ("IS"),
 - Unavailability of the Service Provider's employees,
 - Extreme shock scenarios,
 - Simultaneous disaster scenarios affecting the AFD and the Service Provider;
- - monitoring the back-up service on a daily basis;
- crisis organisation;
- continuity needs and levels of back-up services;
- controls and tests.

The Parties agree that force majeure means any act or event that is unforeseeable, unavoidable and outside the Parties' control, with the effect of preventing the Service from being provided.

They acknowledge that the following events shall be excluded from the definition of force majeure:

- Strikes by the Service Provider's employees, agents or suppliers;
- Occupation of the premises of the Service Provider, its agents or suppliers;
- Power outages;
- Technical, administrative or other contingencies that affect transmission networks;
- Data carrier failures;
- Attacks on the Service Provider's website through hacking.

c) Service control procedures

The Service Provider undertakes to comply with the procedures defined by the Agence Française de Développement on the organisation and control of the services it provides.

Controls on the performance of the Service

The Service Provider undertakes to send the Agence Française de Développement monitoring dashboards and indicators for the Service (production, performance, anomaly rates, etc.) in the format and at the frequency agreed with the Agency. The Service Provider undertakes to put in place a reporting procedure for anomalies and action plans for recurring and/or material anomalies. The Service Provider undertakes to hold meetings of the supervisory committees for the Service defined with the Agence Française de Développement (project committees, steering committees etc.). These monitoring bodies must enable the

Agence Française de Développement to assess the organisation and availability of the Service Provider's human, real estate, technical and financial resources in light of the risks to continuity of the Service.

Controls by the Service Provider

The Service Provider undertakes to inform the Agence Française de Développement immediately of any change in its financial, economic and/or legal situation.

On the date on which the contract is signed and at least one month before each annual expiry date, and at the request of the Agence Française de Développement at any time during the term of the contract, the Service Provider agrees to provide the following documents free of charge (to the extent that it is required to make such documents available by law or under the Agreement with the AFD):

- Multi-risk insurance and third-party liability certificates or certificates for any other insurance required to provide the Service;
- Its mandatory certifications and approvals for the Service provided;
- The most recent K-Bis certificate for the current year;
- In relation to the IT security system: its data security and confidentiality policy, its IT charter, its valid security and hosting certifications;
- In relation to the internal control system (to be adapted by the author): its risk mapping, control plan, results of controls and audit plan;
- In relation to the business continuity plan: its business continuity plan, testing schedule and test reports.

d) Substantial alteration of the service and sub-contracting

The Service Provider undertakes to notify the Agence Française de Développement of any event that may have a noticeable impact on its ability to perform the outsourced tasks in an effective manner and in compliance with prevailing laws and regulatory requirements.

e) Protection of confidential information

The Service Provider undertakes to protect the Confidential Information relating to the Agence Française de Développement, its clients and third parties of the AFD. It undertakes to use its best endeavours, including through the introduction of appropriate technical and organisational measures, to prevent such information from being distorted, damaged or access by unauthorised third parties.

f) In the event of a banking crisis affecting the AFD

The Service Provider undertakes not to prevent the ACPR from exercising its powers with regard to the prevention or management of banking crises. It should be noted in particular that the ACPR has the power to temporarily suspend any payment obligation, as well as any termination rights held by the Service Provider, provided that the AFD's substantive payment obligation (within the meaning of Art. 68 of Directive 2014/59/EU) continues to be performed.

6.2. The Service Provider's representations

The Service Provider shall be responsible for obtaining the authorisations required for the Agreement and insurance relating to the Services. The Service Provider represents that it shall take out and maintain in

effect, and ensure that its Staff are also covered by insurance against all risks related to the performance of the Services, in particular where members of Staff travel abroad. The Service Provider shall provide AFD, at its request, with the corresponding insurance certificate(s).

The Service Provider represents:

- that it has obtained, from the relevant authorities, all the authorisations required to perform its activity in its country of origin or the country where the Services are to be performed;
- that it has all the authorisations required for the Agreement to be valid and for the obligations arising therefrom to be fulfilled;
- that it employs its Staff in accordance with the employment regulations that apply to it.

The Service Provider represents that it has sufficient security and risk management procedures applicable to the activities carried out under the contract.

6.3. The Service Provider's obligations

In accordance with Articles L 8222-1 and D 8222-5 of the French Employment Code (Code du travail), the Service Provider shall provide, when the Agreement is signed and then every six (6) months thereafter and until the end of the performance of the Agreement, the following documents:

- a certificate issued by the French social security authority in charge of collecting payment of social security contributions showing that the social security declarations for which the Service Provider is responsible have been duly submitted, with said certificate being dated no more than six (6) months previously; this certificate should state that the payments and social security contributions payable have been paid and should include the identity of the company, the number of employees employed and the base of remuneration declared in the most recent statement of social security contributions sent to the French social security authority in charge of collecting payment of social security contributions;
- an "*extrait K-bis*" (certificate of registration) issued by the Trade and Companies Register **or** [a copy of an identification card showing registration with the Trades Register] **or** [a receipt for the filing of a declaration with a company formality centre]¹;
- a certificate issued by the Service Provider certifying that it provides its employees with payslips in accordance with French regulations.²

Pursuant to Article L 8222-6 of the French Employment Code, AFD reserves the right to impose a penalty on the Service Provider if it fails to carry out the formalities referred to in Articles L 8221-3 to L 8221-5 of the French Employment Code relating to illicit work by concealing business activities and concealing the existence of salaried employees.

If AFD is informed in writing that the Service Provider or a subcontractor has failed to carry out the required formalities, it shall serve formal notice on the Service Provider, by recorded delivery letter with advice of receipt, to immediately rectify this.

¹ For companies currently being registered or where the Service Provider is not required to register with the Trade and Companies Register or the Trade Register.

² To be inserted if the Service Provider employs employees for more than one month.

If formal notice is served on the Service Provider, it must provide proof that it has carried out the relevant formalities. If it fails to do so, AFD may terminate the Agreement without compensation, at the Service Provider's cost and risk.

6.4. Confidentiality obligation

The Service Provider, acting on its own behalf and on behalf of the Staff, for whom it acts as guarantor, undertakes, throughout the term of the Agreement and for five (5) years after the end of the Agreement, that Confidential Information:

- shall be protected and kept strictly confidential and shall be handled with the same level of precaution and protection as its own confidential information of the same importance;
- shall only be transmitted internally to the Staff;
- shall not be used for any purpose other than the purpose defined in the Agreement.

Notwithstanding the foregoing paragraph, information covered by professional secrecy and banking secrecy shall be kept confidential until the corresponding secrecy obligation ends.

The Service Provider therefore undertakes not to disclose the Confidential Information, directly or indirectly, in whole or in part, without AFD's express, prior, written agreement, to keep any information or document obtained in the context of the Agreement confidential and to refrain from informing third parties of the assignments entrusted to it without AFD's express, prior, written agreement.

At the end of the Agreement the Service Provider undertakes to [destroy all manual or computer files storing information recorded] or [to return all documents provided].

6.5. The Service Provider's powers

The Service Provider shall have no power to act in the name and on behalf of AFD or to bind AFD, unless AFD gives it an express and special authorisation on a case-by-case basis. AFD shall remain solely responsible for any decisions to be taken as regards proposals submitted to it by the Service Provider at the end of the Services.

6.6. Integrity clause

The Service Provider represents and undertakes that:

- it has not committed any act that could affect the competitive process and in particular that no Anticompetitive Practices have occurred nor will any such practices occur;
- the negotiation, entry into and performance of the Agreement have not, do not and will not give rise to any Act of Corruption.

6.7 Sustainable development

AFD attaches great importance to compliance with provisions in favour of sustainable development, from a social and environmental standpoint.

The Service Provider therefore undertakes to comply with the provisions set out in Appendix 3.

Article 7. AFD's obligations

In order to allow the Service Provider to perform its work properly, AFD shall:

- make available to the Service Provider all the elements in its possession that are required to understand the problem with a view to performing the Services;
- facilitate contacts between the Service Provider and AFD employees involved in the Services.

Article 8. Entry into effect – Term of the Agreement

The Agreement shall come into effect as from its signature by the Parties. The Services shall start from this point.

The Agreement may also end if it is terminated by one of the Parties in the cases and in accordance with the terms and conditions set out in Article 9 of the Agreement.

The stipulations of Article 5 (Intellectual property), Article 6.3 (Confidentiality), and Article 12 (Governing law – Jurisdiction) shall continue to apply after the Agreement expires.

Article 9. Audit

The AFD reserves for itself or for the Autorité de contrôle prudentiel et de résolution (ACPR) (or any other equivalent foreign authority within the meaning of Articles L. 632-7, L. 632-12 and L. 632-13 of the French Monetary and Financial Code, in relation to the Services to be carried out abroad or in the context of the ACPR's cooperation with such foreign authorities) or for any other regulatory or supervisory authority, any data protection authority or any public archiving authority, as well as for the persons appointed by them, the right to carry out any audit of the Supplier. This audit may:

- Seek to verify its compliance with its contractual obligations, the terms and conditions of performance of the services and/or the performance of the contractor, as well as with applicable regulatory requirements;
- Relate to personal data, the procedures for which are set out in the Personal Data clause of this contract;
- Enable the ACPR to exercise its supervisory and resolution powers, as set out in Article 63(1)(a) of Directive 2014/59/EU and Article 65(3) of Directive 2013/36/EU.

The AFD reserves the unconditional right, for itself and for the ACPR, as well as for any person it may engage, to inspect and audit the service provider's compliance with applicable contractual and regulatory requirements. In this context, the AFD, the ACPR and the third parties engaged by them shall have full access to all relevant business premises (registered offices, operational centers, etc.), all relevant devices, systems, networks, information and data used to provide the service, including related financial information, as well as to the employees and external auditors of the service provider from whom written or oral explanations may be requested, at no cost. The AFD also reserves the right to carry out individual audits and penetration tests at the service provider's premises in order to assess the effectiveness of internal cybersecurity and ICT security measures and processes.

In the event that sub-contracting is duly authorised by the AFD, the service provider shall procure that the sub-contractor grants the AFD and the ACPR the same contractual access and auditing rights as those granted by the service provider.

This audit may be carried out at any time, at the AFD's discretion, including up to five (5) years after the contract is terminated.

The Contractor shall be given written notice of the audit by the AFD, ACPR or third parties acting on their behalf one month before the audit is commenced, unless this is impossible due to an emergency or crisis situation or gives rise to a situation in which the audit would no longer be effective. In this respect, the AFD may appoint an independent expert who is not a competitor of the Contractor and who must sign a confidentiality undertaking.

The Contractor undertakes to work with the AFD or its representative and with the ACPR and to facilitate their audit by providing them with all the necessary information and by responding to all their requests relating to such audit, within the authorised control limits listed at the beginning of this clause. If their requests exceed these contractual limits for authorised audits, the Contractor shall alert the AFD. Both parties shall seek the best way of carrying out the above audit within the permitted contractual limits.

Throughout the term of the Contract and for the duration of the tax limitation period following the termination thereof, the Contractor undertakes to keep at the disposal of the AFD and its authorised auditors all accounting documents and other documents relating to the services covered by the contract.

The Contractor undertakes to keep complete and accurate archives of the invoices and all associated documentation relating to the preparation of those invoices.

These records must include, but are not limited to:

- Physical documents (hard copies, CDs, etc.),
- Electronic documents (emails and information stored in electronic databases)

In the event that the Client requires documents that are shown to be in the exclusive possession of the Supplier to be disclosed, the audits shall then be carried out at the Supplier's premises and must be carried out within the opening hours, and in accordance with the practices and safety rules in force at the premises in question. The Client may access the Supplier's premises after sending it 72 hours' written notice of such a request.

The cost of such an audit shall be borne by the AFD except in the event that this audit reveals a breach by the Contractor.

Article 10. Reversibility

At any time during the term of this contract, at the request of the Client, as well as in the event of the expiry or termination of all or part of the contract for any reason whatsoever,

The Contractor undertakes to ensure reversibility and to use its best endeavours, in legal and human terms, to enable the AFD, on the date on which the Contract terminates, to take over the service covered by this Contract, or arrange for a third party to take it over, in the most coordinated manner possible and in the most economic manner for the AFD, and in particular to ensure continuity of the service that is the subject of the contract, with minimal disruption. To that end, for a transitional period of three months after the Contract is terminated, the Contractor shall continue to provide the service before it is fully and effectively taken over by the AFD or by a new service provider appointed by the AFD.

On termination of the Contract, for any reason whatsoever, the Contractor shall provide the AFD with any document it requires in order to take over the service, whether it is to take over the service itself or entrust it to a third party.

At the AFD's request, the Contractor shall, for a maximum period of two (2) months beginning on termination of the Contract, respond to any request for assistance, even on an ad hoc basis, made by the AFD or by the contractor appointed by the AFD to take over the service that is the subject of this Contract.

The Parties agree the following provisions with regard to the reversibility assistance services to be provided by the Contractor:

- if reversibility is required as a result of the termination or expiry of the Contract, as a result of fault or a breach by the Contractor, or if it results from the non-renewal of the Contract on any expiry date as a result of the Contractor's actions, the Contractor's reversibility assistance services shall be provided to the AFD without charge,
- if reversibility is required as a result of an event of force majeure or the expiry of the Contract in circumstances in which both parties are at fault, the costs of the reversibility assistance services shall be shared equally,
- if reversibility is required as a result of any other disruption to this Contract, the reversibility assistance services provided by the Contractor shall be invoiced to the AFD in full.

The Service Provider accordingly undertakes to:

- return all data belonging to the Agency and all personal data previously communicated by the AFD in a reliable, usable and agreed format;
- destroy any copies of such data and not use them for its own purposes or for the benefit of third parties.

The Service Provider undertakes to use its best endeavours to ensure access to the data belonging to the AFD, even in the event of its insolvency, resolution or any interruption to its business activities. It shall not sub-contract the Service or transfer the data to a third party without the AFD's prior written consent and shall not do anything that may prevent the AFD from accessing the data belonging to it. In the event that the business activities associated with the Service are voluntarily discontinued, the Service Provider undertakes to notify the AFD at least three months in advance and to reverse the outsourcing of the Service

Article 11. Termination of the Agreement

11.1. Termination for reasons of convenience

AFD may terminate the Agreement at any time by notifying the other Party of its decision at least 30 (thirty) days beforehand by recorded delivery letter with advice of receipt, without compensation for the other Party.

In this case, AFD shall reimburse the Service Provider for the costs incurred by it until the date of termination and shall pay it, where applicable, the amount corresponding to the part of the Services that has been performed.

11.2. Termination in the event of failure to perform not attributable to the Parties

Where, for reasons of safety or security, one or more assignment(s) that is/are required and is/are included in the Services located in an area potentially at risk is/are cancelled, and this cancellation compromises the performance of the Services pursuant to the Agreement, either Party may terminate the Agreement by notifying the other Party of its decision at least 8 (eight) days beforehand by recorded delivery letter with advice of receipt, without compensation for the other Party.

In this case, AFD shall reimburse the Service Provider for the costs incurred by it until the date of termination and shall pay it, where applicable, the amount corresponding to the part of the Services that has been performed.

11.3. Termination for breach

The Agreement may be terminated automatically by either Party, by recorded delivery letter with advice of receipt, in the event the other Party breaches any of its obligations pursuant to the Agreement, and said breach has not been remedied within a period of fifteen (15) days as from formal notice, sent by recorded delivery letter with advice of receipt, requiring it to remedy said breach. Any termination may be decided without prejudice to any compensation that may be claimed in addition by the non-breaching Party.

The termination of the Agreement by AFD shall be without compensation and this shall not affect AFD's right to take advantage of the rights and obligations arising before the date of termination.

11.4 Termination due to a force majeure event

Where a force majeure event, as defined in the case law of French courts, prevents the Service Provider from fulfilling its obligations and continues more than one (1) month after it started, the Agreement may be terminated automatically by AFD, merely by notifying the Service Provider, without compensation for the Service Provider or notice being required.

11.5 In all the cases of termination stipulated in Article 9 of the Agreement:

- all the rights and obligations of the Parties shall automatically end, except for rights and obligations arising before the date of termination, and, in particular, rights relating to intellectual property (i) and confidentiality obligations (ii);
- in any event, when the Service Provider receives notice of termination, it shall provide AFD with the works performed on the date of termination and all the documents, equipment and/or material provided to it.

11.6 Other cases

The AFD reserves the right to terminate the contract with the Service Provider where the Service Provider no longer has the required certifications and approvals to provide the Service.

The AFD reserves the right to terminate the contract with the Service Provider where the processing, management or security of confidential information and personal or sensitive data are subject to weaknesses such that the integrity, security or confidentiality or lawful processing of such information and data appears to be compromised.

Article 12. Fees - Levies – Taxes

Any fees, levies, tax and/or duties or withholdings of any kind whatsoever that may be payable as a result of entering into, performing or extending the Agreement shall be borne solely by the Service Provider.

In accordance with the interpretative memorandum issued by the French Tax Legislation department dated 28 March 1986, the services referred to in Article 259 B of the French Tax Code could be exempt from VAT where these intangible services are been ordered by French public bodies acting in the context of their work involving cooperation and assistance in favour of foreign States or bodies located outside the European Union.

In this case, the status of the AFD, the features of the services to be performed and the intended recipient of said services allow the Service Provider to apply for exemption from the tax offices to which the Service Provider will be required to provide supporting documents in this regard.”

Article 13. Miscellaneous

The Service Provider may not assign any of its rights and/or obligations pursuant to the Agreement without AFD’s prior express consent.

Any notices, reports and other communications relating to the Agreement shall be delivered or sent to the respective address for service of the Parties referred to on the first page hereof. They shall become effective as from receipt at this address or at any new address of which the other Party has been duly notified in writing.

Any amendment of the terms and conditions of the Agreement, including changes to the type or volume of the Services or the amount of the Agreement, shall be the subject of a written agreement between the Parties.

Article 14. Security

The Service Provider undertakes to comply with all applicable safety rules, laws and regulations and to take the measures incumbent upon it to ensure the safety of its staff, for whom it is solely responsible.

The AFD is not responsible for the security of individuals or employees of legal entities to whom the Service Provider entrusts or delegates, in any manner whatsoever, all or part of the performance of the Service(s).

Throughout the performance of the Service(s), and in particular prior to any travel by its staff, the Service Provider undertakes to obtain information the French Embassy(ies) of the country(ies) concerned about the safety risks incurred and to follow the advice provided. It undertakes to ensure that the natural or legal persons acting on its behalf in the context of the performance of the Service(s) comply with this obligation.

At the time of notification of the contract, if the area(s) where the Service is to be implemented is/are classified as orange or red by the French Ministry of Europe and Foreign Affairs, the Service Provider undertakes to send its security documentation to a specialised external body designated and financed by the AFD. This transmission will take place as soon as the contract is notified and before any travel and intervention in this/these area(s).

The specialised external body will review said documentation and send its recommendations to the Service Provider alone, which will decide on the action to be taken under its sole responsibility.

The specialised external body will draft up and send the AFD a certificate certifying the review of the documentation provided. The Service Provider may not travel before receipt of this certificate by the AFD.

Should the area(s) for implementation of the Service be classified as falling within an orange or red zone by the French Ministry of Europe and Foreign Affairs during the performance of the contract, the Service Provider undertakes to suspend its activities in the area(s) concerned and to send its security documentation to a specialised external body, designated and financed by the AFD, which will review it and send its recommendations to the Service Provider alone, which will decide on the action to be taken under its sole responsibility.

The specialised external body will draft up and send the AFD a certificate certifying the review of the documentation provided. No new intervention in the area(s) concerned may be organised before receipt of this certificate by the AFD.

The Service Provider is solely responsible for the decision to cancel or maintain planned travel.

Article 15. Suspension of the contract for security reasons

In the event of a serious and imminent risk of damage to the physical integrity of its staff and/or any person acting on its behalf, the Service Provider may decide, without prior notice, to demobilise them from the area of performance of this contract and/or from the hazardous area, and may immediately suspend all or part of the performance of this contract.

The Service Provider shall immediately inform the AFD.

The Service Provider shall, within a maximum of seven (7) days from its decision, provide the AFD with written evidence that its decision was in accordance with the terms of the first paragraph above. It shall specify the reasons for its decision, the foreseeable consequences for this contract, the measures proposed to minimise these consequences and the costs resulting from this demobilisation and/or suspension.

The amount of the reimbursable expenses directly resulting from this suspension, demobilisation and/or remobilisation of personnel, minus sums paid by the service provider's insurance, as well as the reimbursement procedures, must be determined jointly by the parties.

The Service Provider must continue to fulfil its obligations under this contract and take all measures to minimise the consequences of the demobilisation of staff or any other party concerned and any suspension of services. Where necessary, the parties will determine any modifications to this contract to ensure the continued performance of the services.

In the event that the Service Provider is definitively prevented from performing this contract, AFD may terminate the contract, on its own initiative or at the request of the holder.

Article 16. Governing law - Jurisdiction

This Agreement shall be governed by French law. Any dispute relating to the validity, interpretation, performance or termination of any of the clauses of the Agreement shall be referred to the Paris courts having jurisdiction if it has not been possible to settle said dispute amicably.

Executed in Ankara, on _____

In two (2) originals, two (2) of which are for AFD

For AFD

For the Service Provider

By:
Position:

By :
Position:

Appendix 4 - Social and Environmental Responsibility

The Parties have both initiated a global procedure of taking sustainable development into account, aimed at promoting economic development, [reducing] social inequality, protecting the environment, and good governance practice.

The three goals of sustainable development are:

- economic: continuing to produce the wealth required by the population.
- social: endeavouring to reduce inequality worldwide.
- environmental: protecting the environment for future generations.

1.1 Social and environmental responsibility and AFD

AFD has adopted a social and environmental responsibility policy in order to integrate the principles of sustainable development into its internal management and funding procedures. This policy is based on international declarations and conventions relating to sustainable development supported by the French government.

1.1.1 Social and environmental responsibility and internal management

Sustainable development is an essential requirement in the internal management of the group. Dialogue between employers and staff, a mobility policy and support of staff, training programmes, French case law and a professional charter of ethics are developed from the standpoint of social and environmental responsibility.

As regards protecting the environment, AFD has chosen to promote ‘clean energy’ for its infrastructure, at its head office and in the branches of its network. This is aimed at reducing carbon emissions. In addition, AFD is planning to introduce a process of offsetting greenhouse gas emissions.

AFD has also introduced a programme to reduce waste and to monitor its consumption of water and electricity. ‘Eco-responsible’ purchases are encouraged: recycled paper or paper from certified forests in particular.

1.1.2 Operations based on sustainable development

1.1.3 Over the years, sustainable development has become an essential component of AFD’s operations. The goals of protecting the environment and social responsibility are now systematically taken into account when projects are drawn up and implemented.

1.1.4 The private sector receives special attention. It is the main engine for growth and contributes directly to achieving goals in the fight against poverty. However, it can also have a negative impact on the environment and social cohesion.

1.1.5 Fighting financial crime

AFD is involved in fighting financial crime and corruption by strengthening the eligibility criteria for loans and by disseminating good practice and anti-money laundering practices in the banking sector.

In 2006, AFD created a permanent control and compliance department. This department is in particular responsible for fighting money laundering and is required to grant prior approval of all funding decisions. The department manager is responsible for reporting to TRACFIN, the French administrative body responsible for gathering information in the fight against money laundering and the financing of terrorism.

1.1.6 The eight components of social and environmental responsibility as regards the private sector for AFD

1. Taking local environmental considerations into account by promoting loans aimed at co-financing the environmental components and the additional costs of investment programmes in industry or infrastructure. This entails the provision of environmental credit facilities for partner banks.
2. Contributing to the fight against global warming by supporting energy efficiency or waste processing projects that form part of the 'Clean Development Mechanism' under the Kyoto Protocol.
3. Protecting biodiversity by promoting in particular certain subjects like the reasonable use of rainforests.
4. Improving respect of social rights directly in projects and supporting certain sectors in the context of the commercial capacity building programme, such as for the textile sector in Cambodia, for example.
5. Contributing to the improvement of education and training by promoting public-private partnerships for private secondary or higher education projects and promoting professional training.
6. Improving the health of workers in businesses by promoting private hospital projects in the context of public-private partnerships and getting businesses involved in the fight against AIDS.
7. Fighting financial crime, by strengthening eligibility criteria and by introducing specific tools: anti-money laundering facility of €5 million, disseminating good practice in collaboration with the World Bank.
8. Contributing to improving corporate governance by contributing to the Global Corporate Governance Forum set up by the World Bank to acquire a certain number of training tools and by participating actively in the work of the United Nations' Global Compact.

1.2 The Service Provider's policy on social and environmental responsibility

[to be completed by the bidder]

1.3 Social and environmental responsibility in the context of the Agreement

The Parties undertake to apply their respective policies and commitments as regards social and environmental responsibility in the context of the Agreement.