

**Millennium Foundation of Kosovo**

**On Behalf of:**

**The Government of Republic of Kosovo**

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**SELECTION OF AN INDIVIDUAL CONSULTANT FOR**

**INDEPENDENT EVALUATORS** **for the Procurement Activity - Program Management Consultant for Renewable Energy IPP Facilitation Project**

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**IC/ MFK/2019/023**

**01 October 2019**

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| 1. Letter of Invitation
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***Prishtina, Kosovo***

**01 October 2019**

**INDEPENDENT EVALUATORS for the Procurement Activity –**

**Program Management Consultant for Renewable Energy IPP Facilitation Project services for**

**Millennium Foundation Kosovo**

**IC-MFK- 2019 / 023**

The United States of America, acting through the Millennium Challenge Corporation (“MCC”) and the Government of **Kosovo** (the “Government”) have entered into a Millennium Challenge Account Threshold Program Grant Agreement assistance (a “Grant Agreement”) to help facilitate poverty reduction through economic growth in **Kosovo** (the “Program”) in the amount of approximately **49 million** USD (“MCC Funding”). The Government, acting through Millennium Foundation Kosovo (the “MCA Entity”), intends to apply a portion of the MCC Funding to eligible payments under a contract for which this Letter of Invitation (“LOI”) is issued.

The Threshold Program includes the following projects:

a) Reliable Energy Landscape Project: Demand for electricity significantly surpasses supply in Kosovo, and the country struggles with the reliability of its energy supply. This project encourages greater household energy efficiency and facilitates the switch to non-electric sources of heating through a pilot activity. MCC’s investments also work to bolster private-sector participation in the power sector by exploring barriers to finance for independent power producers, and create opportunities for women to participate in the energy sector through both employment and entrepreneurship and

b) Transparent and Accountable Governance Project: Government decision-making is often opaque, leading to distrust by the private sector and civil society, and high perceptions of corruption. Kosovo’s judiciary is one the country’s least trusted institutions. This project supports the implementation of a case management information system to make judicial information publicly available, and improvements to the collection and reporting of environmental data to the public. An open innovation competition will let the government pose their challenges to civil society and private sector stakeholders to propose creative, data-grounded solutions, which can be a model for more productive partnerships between government and civil society.

This Letter of Invitation, follows the General Procurement Notice that appeared in dgMarket on, UNDB Online and MFK website on 29 July 2019, and on the “Koha Ditore” on 30 July 2019.

**Summary of Services:**

The Millennium Foundation Kosovo now invites technical and financial proposals from eligible Individual Consultants to provide consultancy services as independent evaluator, member of the **INDEPENDENT EVALUATORS** **PANEL for the Procurement Activity - Program Management Consultant (PMC) for Renewable Energy IPP Facilitation Project.**

The estimated level of efforts for the assignment is **5 working days**, and the assignment is expected to be conducted between **October 23rd, 2019 to November 1st, 2019**. MFK will notify the independent evaluators on the exact dates of evaluation. If there is a higher volume of applications received, there will be an extension in the number of working days. The location of the assignment is ***MFK premises in Prishtina***.

The required qualifications for the Individual Consultant to be considered are indicated in the Terms of Reference (“TOR”) as below. Please refer to the detailed Terms of Reference included in the LOI documents.

**Application Procedure:** Consultants should register their interest by sending an e-mail (with subject: ***INDEPENDENT EVALUATOR*** ***for the Procurement Activity - PMC for Renewable Energy IPP Facilitation Project Services*** to the Procurement Manager on ***procurement@millenniumkosovo.org***, giving their full contact details.

Interested Individual Consultants are requested to submit their **Application/Cover Letter, CV**, and **financial proposal** **as separate files in a single submission** using the four (4) forms provided for this purpose in the LOI documents.

**Selection Procedure**: The Consultant will be selected in accordance with the procedures for selection of Individual Consultants set out in the MCC Program Procurement Guidelines (P1.B.3.10) which are provided on the MCC website ([www.mcc.gov](http://www.mcc.gov)).

The selection process comprises two stages: first, MFK will select the consultant with the most appropriate CV/qualifications and experience using the criteria provided in the LOI documents then the financial offer will of the most qualified consultant will be opened. Contract award is subject to negotiations and a price reasonableness analysis.

Application/Cover Letter, current CV, and **financial proposal** shall be submitted only to the file request link below no later than **10 October 2019 at 11:00 am *(Kosovo Time).***  File Request Link:

1. **[Click here to submit the application for Evaluator for Project Finance and Credit Risk Consultant](https://www.dropbox.com/request/Tuf88viwTV8mKu02ueh2)**
2. **[Click here to submit the application for Evaluator for](https://www.dropbox.com/request/P3SnNeETAMtY9EQ6YUsO)****[Renewable Energy Consultant](https://www.dropbox.com/request/P3SnNeETAMtY9EQ6YUsO)**

Yours sincerely,

Millennium Foundation of Kosovo

Att.:

The Procurement Manager

Address: str. “Migjeni” no. 21 (ex-Bank of Ljubljana Building, floor IX),

Postal Code:10000 Prishtina, Kosova

Email: procurement@millenniumkosovo.org

Phone Number: 00 383 38 752 110

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| 1. Terms of Reference
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**Independent Evaluator for the** **Procurement Activity -** **PMC for Renewable Energy IPP Facilitation Project**

The goal of the Kosovo *Renewable Energy Independent Power Producer and Commercial Finance Facilitation Project* is to support the overcoming of the barriers within the Kosovo market in regards to the lack of successful project financing by local and regional commercial banks to renewable energy IPPs. Part of the proposed project involves the Millennium Kosovo Foundation (MFK) direct financial support to the Kosovo Credit Guarantee Fund to aid the expansion and build the internal capacity of the Fund (KCGF) to enable them to serve as a key domestic catalyst within Kosovo to unlock commercial financing for small-scale renewable energy generation in collaboration with their consortium partners.

Therefore, MFK is seeking **2** short-term independent evaluators/experts to be part of the tender evaluation panel (TEP) for the bids received during the Procurement Activity **- PMC for Renewable Energy IPP Facilitation Project**.

An extract from the Specific Procurement Notice (SPN) for this Procurement Activity is provided below:

*The central goal of this procurement activity is for MFK to conduct a series of capacity building activities to build the institutional and technical capacities of the Kosovo Credit Guarantee Fund (KCGF), its partner financial institutions, and key public and private sector key stakeholders so that KCGF can launch and implement a renewable energy guarantee window to support its partner financial institutions on a sustainable cost-recovery basis. Additionally, the Program Management Consultant (PMC) would serve as the principle point of contact and a key interlocutor to represent both MFK and KCGF in the on-going daily processes to raise and deploy needed guarantee capital to support that window as well as oversee the technical assistance resources building the capacity of KCGF, partner institutions, and IPP developers. The Program Management Consultant will oversee and coordinate all of that technical capacity building services on behalf of MFK, develop subsequent ToRs and Scopes of Work for needed procurements during the remaining Threshold Period, and perform all routine program management related activities successfully administering those technical consulting contracts for MFK and MFK’s Implementing Entity (IEA) partners and designated key stakeholders. The aim of this PMC procurement is to help solidify collaboration between MFK and KCGF and successfully launch a renewable energy guarantee window on behalf of KCGF and Kosovo.*

*MFK now invites proposals from legally constituted firms to provide the consultant services referenced above (“Proposals”). More details on these consultant services are provided in the Terms of Reference.*

For more details related to **Procurement Activity - PMC for Renewable Energy IPP Facilitation Project** please see the RfP in the following link: <https://millenniumkosovo.org/procurment/program-management-consultant-for-renewable-energy-ipp-facilitation-project-rfp-mfk-2019-qcbs-no-016/>

**1. Objective**

To provide expert insight and judgment in the qualification and evaluation of the bids based on the criteria specified in the respective RFP.

**2. Scope of work**

Independent Evaluator / Consultant is expected to evaluate the bids received during the **Procurement Activity - PMC for Renewable Energy IPP Facilitation Project** and carry out the responsibilities and tasks, as detailed in the following paragraphs.

**3. Responsibilities and Tasks**

In coordination with MKF Energy Director, the Consultant will carry out the following tasks:

* Review and confirm understanding of the objectives, timeline, and process of the Procurement Activity - PMC for Renewable Energy IPP Facilitation Project.
* Review and sign a non-disclosure agreement and affirm the existence of any conflicts of interest. If there are conflicts of interest, commit to disclose them to the MFK Procurement manager so applications can be reassigned.
* Based on your experience, expertise, conduct a review which includes the individual evaluation of the submitted bidding proposals, based on the following criteria:
	+ Organizational capability and experience of the bidder
	+ Adequacy of the proposed methodology and work plan in responding to the Terms of Reference
	+ Key Professional Personnel
* Submit the score sheets and comments by the deadline to the MFK ;
* Reach the consensus with other TEP members on the final evaluation and comments of each of the bidding proposals;

The consultant will elevate any concerns, questions, or conflicts to the MFK as they arise for timely resolution. In the event something is unclear, the consultant will revert to the MFK for an official position or practice.

**4. Outputs/ Deliverables:**

The Consultant will carry out tasks following this schedule:

Envisioned deliverables and timelines

* Sign Non-Disclosure Agreement: Within 24 hours of accepting assignment.
* Acknowledge any conflicts of interest (or affirm none): Within 24 hours of applications assigned.
* Complete evaluation score sheet and furnish comments: by evaluation deadline. Typically, TEP members are given 5 business days to review and score the bids.
* Sign the individual evaluation form, and the consensus evaluation form.

**5. Timeframe**

The estimated level of efforts for the assignment is 5 working days, and the assignment is expected to be conducted between October 23rd 2019 to November 1st, 2019. MFK will notify the independent evaluators on the exact dates of evaluation. If there is a higher volume of applications received, there will be an extension in the number of working days.

**6. The Service Profile/Qualifications requirements**

The individual consultants should be able to meet the following profile and specifications as described in Section 3 of this ToR.

**7. Payment**

Payment will be made upon completion and satisfactory delivery of Outputs.

**8. Evaluation of Qualifications**

MFK will evaluate the qualifications and experience of all interested experts, and invite the Consultant who, in MFK’s assessment, is most suitably qualified for the assignment to continue with the selection, proposal, and negotiation process as described in the IC. While all required and preferred qualifications are important, MFK will place relatively more weight on demonstrated relevant knowledge and abilities and successful experience in prior performance of similar projects.

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| 1. Evaluation Criteria
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The Consultant is required to obtain a minimum of [***75***] points in order to qualify. The Consultant with the highest score above the [***75***] points threshold will be recommended for award subject to satisfactory references being obtained and agreement on the rate and contents of the Financial proposal.

In the event that a Contract cannot be agreed between MFK and the first-ranked Consultant, the second-ranked Consultant will then be invited for negotiations.

The selection of the Individual Consultant will be based on the following criteria:

**01. Project Finance and Credit Risk Consultant**

|  |  |  |
| --- | --- | --- |
| **ITEM** | **CRITERIA** | **POINTS** |
| **1** | ***Education and Qualifications of the Individual Consultant*** |  |
| 1.1 | University degree in finance business, or a related field relevant to development finance | 25 |
| **2** | ***Experience of the Individual Consultant*** |  |
| 2.1 | At least 10 years working experience in project management and finance sectors and/or consulting projects related to finance. Special expertise in the area of the credit risk is considered an advantage (with verifiable references).  | 35 |
| 2.2 | Specific experience with guarantee mechanisms and guarantee funds, and their use in commercial finance (with verifiable references). | 20 |
| 2.3 | Specific experience with respect to project finance lending (with verifiable references). | 20 |
|  | **Total Score** | **100** |

*The Consultant is required to obtain a minimum of [****75****] points in order to qualify.*

**02. Renewable Energy Consultant**

|  |  |  |
| --- | --- | --- |
| **ITEM** | **CRITERIA** | **POINTS** |
| **1** | ***Education and Qualifications of the Individual Consultant*** |  |
| 1.1 | University degree in engineering, economics, law or other relevant fields | 25 |
| **2** | ***Experience of the Individual Consultant*** |  |
| 2.1 | At least 10 years demonstrable experience in the renewable energy sector, and/or RES projects consultancy services. (with verifiable references).  | 50 |
| 2.2 | Specific experience with financing schemes and mechanisms. Advantage will be given to candidates with project financing experience (with verifiable references). | 25 |
|  | **Total Score** | **100** |

*The Consultant is required to obtain a minimum of [****75****] points in order to qualify.*

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| 1. Proposal Forms
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**APPLICATION/COVER LETTER**

[***Location, Date***]

Millennium Foundation of Kosovo Att.: The Procurement Manager Address: str. “Migjeni” no. 21 (ex-Bank of Ljubljana Building, floor IX), Postal Code: 10000 Prishtina, Kosova Email: procurement@millenniumkosovo.org
Phone Number: 00 383 38 752 110

Dear Sir,

Re: Procurement of Consultant Services for INDEPENDENT EVALUATORS for the Procurement Activity - Program Management Consultant for Renewable Energy IPP Facilitation Project

REF No: IC-MFK- 2019/023

Dear Sir/Madam,

I, the undersigned, offer to provide the consulting services for the above-mentioned assignment in accordance with Letter of Invitation dated 01 October 2019

I hereby submit my Qualifications including my latest updated Curriculum Vitae which contains among others my previous relevant assignments and references with complete contact details.

I hereby declare that all the information and statements made in this document are true and correct. I accept that any misinterpretation contained herein can lead to my disqualification.

I hereby certify that I are not engaged in, facilitating, or allowing any of the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines and that I will not engage in, facilitate, or allow any such prohibited activities for the duration of the Contract. Further, I hereby provide my assurance that the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines will not be tolerated by myself. Finally, I acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract. I further certify that I am eligible to be awarded an MCC-funded contract as per Part 10 of the MCC Program Procurement Guidelines.

If negotiations are held during the initial period of validity of the Application, I undertake to negotiate on the basis of my availability for the assignment.

My submission is subject to modifications arising from Contract negotiations.

I undertake, if my proposal is accepted, to initiate the consulting services on the date indicated in the Letter of Invitation.

I understand that you are not bound to accept any submissions that you may receive.

Yours Sincerely,

[Authorized Signatory]

[Name and Title of Authorized Signatory]

**Curriculum Vitae (CV) Form**

|  |  |
| --- | --- |
| 1. **Name**
 | [Insert full name]  |
| 1. **Date of Birth**
 | [Insert birth date] |  |  |
| 1. **Nationality**
 | [Insert nationality] |  |  |
| 1. **Email**
 | [Insert Email] |  |  |
| 1. **Education**
 | [Indicate college/university and other specialized education, giving names of institutions, degrees obtained, and dates of obtainment]. |
| 1. **Membership in Professional Associations**
 | [insert information] |
| 1. **Other Training**
 | [Indicate appropriate postgraduate and other training] |
| **Countries of Work Experience** | [List countries where the consultant has worked in the last ten years] |
| **Languages** | [For each language indicate proficiency: excellent, good, fair, or poor in speaking, reading, and writing]  |
|  | Language | Speaking | Reading |  Writing |
| **Employment Record** | [Starting with present position, list in reverse order every employment held by the consultant since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.] |
|  | From [month] [year]: | To [month] [year]: |
|  | Employer: |
|  | Position(s) held:PPre |
| **Work undertaken that best illustrates capability to handle the tasks assigned** | [Among the assignments in which the consultant has been involved, indicate the following information for those assignments that best illustrate his/her capability to handle the tasks listed in the LOI] |
|  | Name of assignment or project: |  |
|  | Year: |  |
|  | Location: |  |
|  | MCA Entity: |  |
|  | Main project features: |  |
|  | Position held: |  |
|  | activities/tasks performed: |  |

**References**:

[*List at least three individual references with Substantial knowledge of your work. Include each reference’s name, title, phone and e-mail contact information.* ***MCA-Entity*** *reserves the right to contact other sources as well as to check references, in particular for performance on any relevant MCC-funded projects.]*

**Certification**:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualifications, and my experience. I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged.

I, the undersigned, hereby declare that I agree to participate in the above-mentioned assignment. I further declare that I am able and willing to work for the period foreseen in the above referenced in the Letter of Invitation.

Signature

Date

**FINANCIAL PROPOSAL SUBMISSION FORM**

[***Location, Date***]

Millennium Foundation of Kosovo Att.: The Procurement Manager Address: str. “Migjeni” no. 21 (ex-Bank of Ljubljana Building, floor IX), Postal Code:10000 Prishtina, Kosova Email: procurement@millenniumkosovo.org
Phone Number: 00 383 38 752 110

Dear Sir,

**Re: Procurement of Consultant Services for INDEPENDENT EVALUATORS FOR THE PROCUREMENT ACTIVITY - PROGRAM MANAGEMENT CONSULTANT FOR RENEWABLE ENERGY IPP FACILITATION PROJECT**

**REF No: IC-MFK- 2019/023**

Dear Sir/Madam,

Having examined the Letter of Invitation Documents, I am pleased to submit the following financial proposal for the services to be provided:

***[Include salary[[1]](#footnote-1) history for the past three years]****.*

[***Include fully loaded daily fee including airfare, accommodation, per diem and other expenses***]

**Daily Fee in Euro: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

I understand that you are not bound to accept any proposal you may receive and that a binding contract would result only after final negotiations are concluded on the basis of the technical and price components proposed.

Yours Sincerely,

[Authorized Signatory]

[Name and title of Signatory]

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| --- |
| 1. Condition of Contract and Contract
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**Contract for Consultant’s Services**

**Contract No.** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Between**

**Millennium Foundation of Kosovo**

**and**

 [***Name of the Consultant***]

**for**

**INDEPENDENT EVALUATORS FOR THE PROCUREMENT ACTIVITY - PROGRAM MANAGEMENT CONSULTANT FOR RENEWABLE ENERGY IPP FACILITATION PROJECT SERVICES**

**Dated: [*Date*]**

# Form of Contract

This CONTRACT AGREEMENT (this “Contract”) made as of the **[day]** of **[month]**, **[year]**, betweenMillennium Foundation Kosovo (the “MCA Entity”), on the one part, and **[full legal name of Consultant]** (the “Consultant”), on the other part.

WHEREAS, the MCA Entity has accepted the Consultant’s proposal for the performance of the Services (the “Services”) described in the Description of Services in Appendix A, and the Consultant is capable and willing to perform said Services.

THE MCA ENTITY AND THE CONSULTANT (the “Parties”) AGREE AS FOLLOWS:

1. This Contract, its meaning, interpretation and the relation between the Parties shall be governed by the applicable law of **Kosovo***.*
2. The Contract is signed and executed in English language, and all communications, notices and modifications related to this Contract shall be made in writing and in the same language.
3. The total Contract price is *[insert amount Euro]* and is inclusive of local taxes. The contract price includes all costs associated with the assignment, including remuneration of the Consultant (foreign and local, in the field and at the Consultants’ home office), travel expenses, accommodation, per diem and other expenses.
4. The expected date for the commencement of the Services is **October 23rd, 2019** at MFK premises. The time period shall be **October 23rd 2019 to November 1st, 2019, 5 working days.** If there is a higher volume of applications received, there will be an extension in the number of working days
5. The MCA**-**Entity designatesthe**[*Insert Name and Title reporting Point of Contact*]**as the MCA-Entity’s reporting point of contact.
6. Any dispute, controversy or claim that cannot be amicably settled between the parties and arising out of, or relating to this Contract or the breach, termination or invalidity thereof, shall be finally settled under the auspices of the Arbitration Center at the American Chamber of Commerce in Kosovo in accordance with the Arbitration Rules of the Arbitration Center at American Chamber of Commerce.

7. The following documents form an integral part of this Contract:

1. The General Conditions of Contract(including Attachment 1 “MCC Policy – Corrupt and Fraudulent Practices, Attachment 2 “Annex to General provisions”)

(b) Appendices:

Appendix A: Description of Services and Reporting Requirements

Appendix B: CV of the Expert

Appendix C: Bank Details of Consultant

Appendix D: Negotiated Staffing Schedule

SIGNED:

For and on behalf of *[Name of MCA Entity]*

*[Authorized Representative of the MCA Entity – name, title and signature]*

For and on behalf of *[Name of Consultant]*

*[Consultant – name and signature]*

**General Conditions of Contract**

|  |  |
| --- | --- |
| Corrupt and Fraudulent Practices  | 1.1 The Millennium Challenge Corporation (“MCC”) requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in **Attachment 1**. |
| Commissions and Fees Disclosure | 2.1 The MCA Entity requires that the Consultant to disclose any commissions, gratuities or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract and/or sanctions by MCC. |
| Force Majeure |  |
| a. Definition | 3.1 For the purposes of this Contract, “Force Majeure” means an event or condition that (a) is not reasonably foreseeable and is beyond the reasonable control of a Party, and is not the result of any acts, omissions or delays of the Party relying on such event of Force Majeure, (or of any third person over whom such Party has control, (b) is not an act, event or condition the risks or consequence of which such Party has expressly agreed to assume under this Contract, (c) could not have been prevented, remedied or cured by such Party’s reasonable diligence, and (d) makes such Party’s performance of its obligations under this Contract impossible or so impractical as to be considered impossible under the circumstances. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder. |
| b. No Breach of Contract | 3.2 The failure of a Party to fulfil any of its obligations under this Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as practicable (and in no event later than five (5) days after the occurrence) about the occurrence of an event giving rise to a claim of Force Majeure. |
| c. Measures to be Taken | 3.3 A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.3.4 Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.3.5 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the MCA Entity, shall either: (a) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the MCA Entity, in reactivating the Services; or(b) continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.3.6 In the case of disagreement between the Parties as to the existence or extent of and event of Force Majeure, the matter shall be settled in accordance with GCC Clause 17. |
| Suspension | 4.1 The MCA Entity may, by written notice of suspension to the Consultant, suspend part or all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding seven (7) calendar days after receipt by the Consultant of such notice of suspension or if MCC has suspended disbursements under the Threshold Program. |
| Termination | 5.1 This Contract may be terminated by either Party as per provisions set out below. The Contract has a term of **x** months that starts upon signature of this contract. The contract will terminate on its own when the term expires at **[XXX date].** |
| a. By the MCA Entity | 5.2 The MCA Entity may terminate this Contract with at least fourteen (14) calendar days prior written notice to the Consultant after the occurrence of any of the events specified in paragraphs (a) through (e) of this Clause: (a) If the Consultant does not remedy a failure in the performance of its obligations under the Contract after being notified by the MCA Entity in writing by specifying the nature of the failure and requesting to remedy it within at least ten (10) calendar days after the receipt of the MCA Entity’s notice;(b) If the Consultant becomes insolvent or bankrupt;(c) If the Consultant, in the judgment of the MCA Entity, has engaged in integrity violations as defined in Attachment 1 or if in the judgment of the MCA Entity, continuing the Contract will be detrimental to the interests or reputation of the MCA Entity, or the project;(d) If the MCA Entity, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.(e) If the Threshold Program has been terminated or MCC has suspended disbursements under the Threshold Program. If this Contract is suspended pursuant to this GCC Sub-Clause 5.2 (e) the Consultant has an obligation to mitigate all expenses, damages and losses to the MCA Entity during the period of the suspension. |
| b. By the Consultant | 5.3 The Consultant may terminate this Contract, upon written notice to the MCA Entity in accordance with the time period specified below, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (e) of this GCC Sub-Clause 5:1. If the MCA Entity fails to pay any money due to the Consultant pursuant to this Contract that is not otherwise subject to dispute pursuant to GCC Clause 17 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the payment that is the subject of such notice of termination is made by the MCA Entityto the Consultant within such thirty (30) days.
2. If, as the result of an event of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.
3. If the MCA Entity fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 17. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.
4. If the Consultant does not receive a reimbursement of any Taxes that are exempt under the Threshold Program within one hundred and twenty (120) days after the Consultant gives notice to the MCA Entity that such reimbursement is due and owing to the Consultant. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the reimbursement that is the subject of such notice of termination is made to the Consultant within such thirty (30) days.
5. If this Contract is suspended in accordance for a period of time exceeding three (3) consecutive months; provided that the Consultant has complied with its obligation to mitigate in accordance with GCC Sub-Clauses 5.2 (e) or (i) during the period of the suspension. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.
 |
| Obligations of the Consultant |  |
| a. Standard of Performance | 6.1 The Consultant shall carry out the Services with due diligence and efficiency, and shall exercise such reasonable skill and care in the performance of the Services as is consistent with sound professional practices.6.2 The Consultant shall act at all times so as to protect the interests of the MCA Entity and shall take all reasonable steps to keep all expenses to a minimum, consistent with sound professional practice~~s~~. |
| b. Compliance | 6.3 The Consultant shall perform the Services in accordance with the Contract and the applicable law of **Kosovo.** |
| c. Conflict of Interest | 6.4. The Consultant shall hold the MCA Entity’s interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.6.5 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant’s Services for the preparation or implementation of the project.6.6 The Consultant shall not engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.6.7 The Consultant has an obligation shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the MCA-Entity, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract. |
| Confidentiality | 7.1 Except with the prior written consent of the MCA Entity, the Consultant shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant, make public the recommendations formulated in the course of, or as a result of, the Services. |
| Insurance to be taken out by the Consultant | 8.1 The Consultant shall take out and maintain at its own cost adequate professional liability insurance as well as adequate insurance against third party liability and loss of or damage to equipment purchased in whole or in part with funds provided by the MCA Entity. The Consultant shall ensure that such insurance is in place prior to commencing the Services.8.2 The MCA Entity undertakes no responsibility in respect of any life, health, accident, travel or other insurance which may be necessary or desirable for the Consultant, for purpose of the Services, nor for any dependent of any such person. 8.3 The MCA Entity reserves the right to require original evidence that the Consultant has taken out the necessary insurance. |
| Accounting, Inspection and Auditing | 9.1 The Consultant shall keep, and shall make all reasonable efforts to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.9.2 The Consultant shall permit MCC and/or persons appointed by MCC to inspect the site and/or all accounts and records relating to the performance of the Contract and to have such accounts and records audited by auditors appointed by MCC if requested by MCC.  |
| Reporting Obligations | 10.1 The Consultant shall submit to the MCA Entity the reports and documents specified in **Appendix A**, in the form, in the numbers and within the time periods set forth in said Appendix.  |
| Proprietary Rights of the MCA Entity in Reports and Records | 11.1 All reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the MCA Entity in the course of the Services shall be confidential and become and remain the absolute property of the MCA Entity unless otherwise agreed by the MCA Entity in writing. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the MCA Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the MCA Entity.(a) The Consultant shall indemnify the MCA Entity from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, proceedings, demands, costs, expenses and disbursements of whatsoever nature that may be imposed on, incurred by or asserted against, the MCA Entity during or in connection with the Services by reason of i) infringement or alleged infringement by the Consultant of any patent or other protected right, or ii) plagiarism or alleged plagiarism by the Consultant. (b) The Consultant shall ensure that all goods and services (including without limitation all computer hardware, software and systems) procured by the Consultant from the MCA Entity funds or used by the Consultant in the carrying out of the Services do not violate or infringe any industrial property or intellectual property right or claim of any third party.” |
| Description of Job Description of Consultant | 12.1 The title, agreed job description, minimum qualification and estimated period of engagement to carry out the Services of the Consultant are described in **Appendix A.**  |
| MCA Entity’s Payment Obligation  | 13.1 In consideration of the Services performed by the Consultant under this Contract, the MCA Entity shall make such payments to the Consultant for the Services specified in Appendix A and in such manner as described: **Payment will be made upon completion and satisfactory delivery of Outputs.** |
| Mode of Billing and Payment | 14.1 The payments under this Contract shall be made in accordance with the payments provisions as described in GCC 13.1 14.2 Payments do not constitute acceptance of the whole Services nor relieve the Consultant of its obligations.  |
| Interest on Delayed Payments | 15.1 If the MCA Entity has delayed payments beyond thirty (30) days after the payment date determined in accordance with interest shall be not paid to the Consultant for each day of delay. |
| Taxes and Duties | * 1. Except as may be exempted pursuant to the Threshold Program or another agreement related to the Threshold Program, available in English at **http://millenniumkosovo.org/mfk\_documents/threshold-program-agreement/**, the Consultant, may be subject to certain Taxes as defined in the Threshold Program on amounts payable by the MCA Entity under this Contract in accordance with Applicable Law (now or hereinafter in effect). The Consultant, shall pay all Taxes levied under Applicable Law. In no event shall the MCA Entity be responsible for the payment or reimbursement of any Taxes. In the event that any Taxes are imposed on the Consultant, the contract price shall not be adjusted to account for such Taxes.
	2. The Consultant, shall follow the usual customs procedures of the MCA Country in importing property into the MCA Country.
	3. If the Consultant does not withdraw, but dispose of any property in the MCA Country upon which customs duties or other Taxes have been exempted, the Consultant, (i) shall bear such customs duties and other Taxes in conformity with Applicable Law, or (ii) shall reimburse such customs duties and Taxes to the MCA Entity if such customs duties and Taxes were paid by the MCA Entity at the time the property in question was brought into the MCA Country.
	4. Without prejudice to the rights of the Consultant under this clause, the Consultant, will take reasonable steps as requested by the MCA Entity or the Government with respect to the determination of the Tax status described in this GCC Clause 16.
	5. If the Consultant is required to pay Taxes that are exempt under the Threshold Program or a related agreement, the Consultant shall promptly notify the MCA Entity (or such agent or representative designated by the MCA Entity) of any Taxes paid, and the Consultant shall cooperate with, and take such actions as may be requested by the MCA Entity, MCC, or either of their agents or representatives, in seeking the prompt and proper reimbursement of such Taxes.
	6. The MCA Entity shall use reasonable efforts to ensure that the Government provides the Consultant, the exemptions from taxation applicable to the Consultant, in accordance with the terms of the Threshold Program or related agreements. If the MCA Entity fails to comply with its obligations under this paragraph, the Consultant shall have the right to terminate this Contract.
 |
| Amicable Settlement of disputes | 17.1 The Parties shall seek to resolve any dispute amicably by mutual consultation. |
| Dispute Resolution | 18.1 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to and determined by a sole arbitrator to be appointed by agreement between the Parties or in default of agreement by the Parties, under the auspices of the Arbitration Center at the American Chamber of Commerce in Kosovo in accordance with the Arbitration Rules of the Arbitration Center at American Chamber of Commerce .The arbitration shall be held in Prishtina and the language of the arbitration shall be English. The arbitral award shall be final and binding. Notwithstanding any reference to arbitration herein, the Parties shall continue to perform their respective obligations under the Contract.18.2 MCC has the right to be an observer to any arbitration proceeding associated with this Contract, at its sole discretion, but does not have the obligation to participate in any arbitration proceeding. Whether or not MCC is an observer to any arbitration associated with this Contract, the Parties shall provide MCC with written English transcripts of any arbitration proceedings or hearings and a copy of the reasoned written award within ten (10) days after (a) each such proceeding or hearing or (b) the date on which any such award is issued. MCC may enforce its rights under this Contract in an arbitration conducted in accordance with this provision or by bringing an action in any court that has jurisdiction. The acceptance by MCC of the right to be an observer to the arbitration shall not constitute consent to the jurisdiction of the courts or any other body of any jurisdiction or to the jurisdiction of any arbitral panel. |

**Attachment 1: MCC’s Policy – Corrupt and Fraudulent Practices**

The MCC’s policy on preventing, detecting and remediating Fraud and Corruption may be found at the following link:

<https://www.mcc.gov/resources/doc/policy-fraud-and-corruption>

# Attachment 2: MCC’s Policy – Annex to General Provisions

The MCC’s policy general provisions can be found at the following link:

<https://www.mcc.gov/resources/doc/annex-of-general-provisions>

**APPENDICES**

Appendix A – Description of services and Reporting Requirements

Appendix B - Consultant CV

Appendix C – Consultant Bank Details

1. Salary definition – basic periodic payment for services rendered. Exclude bonuses, profit-sharing arrangements, commissions consultant fees, extra or overtime work payments, overseas differential or quarters, cost of living or dependent education allowances [↑](#footnote-ref-1)