

## **Subcontracting Agreement**

### **Support Services for the Grand Coalition for Digital Jobs (Smart 2-15/1092)**

#### **PARTIES:**

This Agreement is made and entered into by and between:

Telecentre-Europe AISBL  
Rue de Commerce 123  
Brussels 1000  
Belgium

VAT Registration Number BE0830256454

(hereinafter referred to as "TE") represented by Peter Palvolgyi, Chief Operating Officer

And

Ministry of Administrative Reconstruction  
Vasilissis Sofias 15  
Athens 10674  
Greece

VAT Registration Number: EL099323477

(hereinafter referred to as 'the Contractor'), represented by (name, title)

Name: Nikos Michalopoulos

Title: Director General

Date: 06/06/2018

**RECITALS:**

**WHEREAS:**

DIGITALEUROPE (DE) is the leader of a consortium ("the Consortium"), comprising DE, Telecentre-Europe (TE) and EUN Partnership AISBL (EUN), and which has been successful in a tender ("the Tender") issued by the European, (hereinafter referred to as "the Commission") for the support services for the Grand Coalition for Digital Jobs ('the Initiative').

**WHEREAS:**

DE as lead partner in the Consortium has signed a Service Contract, Contract Number 30-CE-0800889/00-29 ("the Contract") with the Commission on 21 July 2016, which sets out the duties and obligations of the partners with respect to the work to be performed under the Contract.

**WHEREAS:**

The Tender submitted by the Consortium foresees that certain of the tasks to be performed by DE, TE and EUN will be carried out by subcontractors.

**WHEREAS:**

The subcontractors will carry out tasks relating to the 'initiative' and will remain under the responsibility of the individual partner in the Consortium which has contracted them.

**WHEREAS:**

The parties to this Agreement wish to specify the respective rights and duties governing the subcontracting work to be carried out by the Contractor for TE in respect to the 'initiative'.

**WHEREAS:**

The terms and conditions of this Agreement are completely subordinate to the Contract between DE and the Commission which is attached hereto and forms Annex II of this Agreement.

**Therefore it has been agreed as follows:**

### **Article 1 – Objectives**

1. In consideration of the payments detailed in article 4 of this Agreement, the Contractor agrees to carry out the services described in Annex I and to produce the deliverables and comply with the delivery schedule as described in the Annex I.
2. In performing the services, the Contractor agrees to comply with the highest professional standards appropriate for the type of work being carried out.
3. The Contractor shall use all reasonable endeavours to ensure that the work shall be carried out in such a way that no act or omission in relation thereto shall constitute, cause, or contribute to any breach or non-compliance by DE, TE or EUN of its respective obligations under the Contract.
4. The parties agree that this Agreement is completely subordinate to the Service Contract – Contract Number 30-CE-0800889/00-29 which was signed between DE and the Commission. In the event of any conflict between the terms and conditions of this Agreement and the Contract, the latter shall prevail.

### **Article 2 – Duration**

1. This Agreement shall come into force on the date when it is signed by the last contracting party.
2. Subject to those terms and conditions which are intended to survive termination, this Agreement shall terminate when all of the services detailed in the Annexes, have been successfully performed by the Contractor which in any event cannot be later than 20 July 2018.
3. Subject to those provisions which are meant to survive termination, this Agreement will however end automatically and immediately upon termination of the Contract which was signed between DE and the Commission, for whatever reason and without any indemnity being due by DE to the Contractor.

### **Article 3 – Specific Obligations of the Parties**

1. The Contractor specifically agrees and confirms:
  - a) That it shall provide the personnel, facilities, equipment and material necessary for it to be able to complete successfully the services to be performed under this Agreement.
  - b) That it shall have sole responsibility for the staff who execute the services and for the legal obligations incumbent on it, notably those resulting from employment, tax (including VAT) and social legislation. The Contractor agrees to supply TE, within 10 working days of the date when this Agreement comes into force, with full details of its VAT status under its national legislation.
  - c) That it shall have sole responsibility for taking the necessary steps to obtain any permit or license required for the performance of the services in accordance with the laws and regulations in force at the place where the tasks assigned to it are to be performed.

- d) That it shall not represent the Commission, DE, TE or EUN nor behave in any way that would give such an impression.
  - e) That it will respond promptly to all reasonable requests from DE, TE and EUN for information, documentation and explanations with respect to the services delivered including requests for supplying supporting evidence for the costs which the Contractor has incurred.
  - f) That it will keep DE, TE and EUN informed promptly of any event or issue which may affect the delivery or quality of the services to be delivered under this Agreement.
  - g) That it will ensure that any deliverable due under this Agreement, including any status report or final report, shall be delivered by the delivery dates specified in Annex I.
  - h) That it will participate in meetings (physical or on-line) of the Consortium where DE, TE and EUN requires its presence, including meetings with representatives of the Commission.
  - i) That it will respect the overall budget for the services.
  - j) That it accepts the General Conditions of the Contract with the Commission and, in particular, Article II.17 of those conditions in relation to checks and audits.
2. The parties shall use reasonable endeavours to ensure the accuracy of any information, documents or materials supplied under this Agreement and promptly notify the other party of any error therein of which it is notified.

#### **Article 4 – Payments**

1. TE will pay the Contractor a total fee of maximum €15 000 excluding VAT, for the successful delivery of the services to be performed under this Agreement. This maximum will not be increased even if the costs incurred by the Contractor are higher than those detailed in the budget.
2. Subject to the provisions of paragraph three of this article, the professional fee shall be paid in accordance with the following schedule:
  - a. 60% of the total fee, representing an amount of € 9 000 excluding VAT, --- excluding VAT, shall be paid within 30 days of receipt by TE of the first interim payment from the Commission, provided TE has received from the Contractor the completed Annual Action Plan 2018 in accordance with Annex I; and provided TE has received from the Contractor in accordance with Annex I. the Status Report for first half 2018' dated at the latest 30 June 2018;
  - b. 40% of the total fee, representing an amount €6 000excluding VAT shall be paid within 30 days of receipt of the funds by TE of the balance payment from the Commission, provided all deliverables as specified in Annex I have been completed in a successful and timely manner.
3. All payments requests are subject to the following conditions:
  - a. They must be accompanied by an invoice in due and proper form detailing the amount to be paid and whether VAT is to be charged or not following the relevant national and/or European legislation;
  - b. They must be accompanied by the relevant reports, documents and justifications as detailed in Article 6;
  - c. Without prejudice to any other rights TE may have, including termination, the amount due may be reduced or cancelled, at the complete discretion of TE, if the

Contractor has not complied with its obligations under this Agreement, including any failure to meet any quality or performance standards, or if the Contractor has incurred substantial delays in the performance of the services or any report due under article 6 of this Agreement, has been submitted. late In the case of late delivery of a report, the minimum reduction applied shall be 5% of the payment due;

- d. The amount of the balance payment will be reduced if the final costs incurred and justified by the Contractor, are lower than the total budgeted amount indicated in Article 4.1. The final payment shall be reduced accordingly and may lead to a reimbursement under the conditions specified in Article 16;
- e. All payment requests are subject to the overriding conditions that a payment can only be made by TE if it has received in full the required funds from the Commission.

### **Article 5 – Bank Account**

1. All payments due under this Agreement shall be paid to the bank account of the Contractor. The Contractor shall confirm within 10 days of signature of this contract with TE the bank account details.
2. The Contractor shall keep TE informed in writing of any changes in this account.

### **Article 6 – Reports**

1. The Contractor shall submit reports on the activities and progress achieved as specified in Annex I. The reports shall be submitted electronically. Report content headings and delivery dates for the reports are more detailed in Annex I.
2. TE shall have 10 working days to review and approve the reports. If the reports reveal serious or significant problems, delays or failure to comply with the terms of this Agreement, then the Contractor will be required to take corrective actions, if these are possible, within 5 working days of having received written notice from TE.
3. TE has the right to require the Contractor to supply information, data and documents, including justification for costs, to support the issues raised in any report received under this article. Where any time limit is specified in this article to review and approve any report, this time limit may be extended by the time necessary for the Contractor to supply TE with such documentation and for TE to review it. Where such documentation is requested, it must be supplied within five days.
4. Where TE requires corrective actions to be taken pursuant to the review of any report under this article, then such action must be taken by the Contractor within any time limit specified in the notification from TE. If the Contractor fails to take action within the time limit indicated or if such remedial or corrective action is not possible, then the Agreement may be terminated as specified in Article 12.
5. In line with the requirements from the Commission, TE retains the right to amend the format for the reports, by simple notice to the Contractor.

### **Article 7 – Intellectual Property Rights**

1. The PARTIES confirm and agree that the copyright and all other proprietary rights in any report, documentation, information, software, programme and all other developments, products and concepts in any media whatsoever, prepared or created by the Contractor pursuant to this Agreement shall be the sole property of the Commission notwithstanding termination hereof unless otherwise expressly agreed in writing by TE.
2. The PARTIES confirm and agree that the copyright and all other proprietary rights in any report, documentation, information, software, programme and all other developments, products and concepts in any media whatsoever, prepared or created by the Contractor beyond the scope of this contract, co-branded for publicity and promotional purposes, will retain the existing copyright and all other proprietary rights.
3. Contractor shall not incorporate knowingly in any report, documentation, information, software programme and all other developments, products and concepts in any media whatsoever, prepared or created by the Contractor pursuant to this Agreement, the proprietary rights (such as intellectual property rights or Proprietary Information) of a third party unless that party has agreed in writing to such use or has granted a license to the Contractor covering such use.

#### **Article 8 – Assignment and Subcontracting**

1. The Contractor shall not assign the rights and obligations nor subcontract any of the services to be delivered under this Agreement except with the prior written authorisation of TE who may subject this approval to such conditions as it sees fit.
2. No sub-contracting or assignment by the Contractor shall relieve the Contractor of its duties and obligations under this Agreement.

#### **Article 9 – Confidentiality**

1. The Contractor must treat as confidential and must use all reasonable efforts to ensure that it does not disclose to any person any information of a technical, commercial or financial nature or otherwise relating in any manner to the execution of this Agreement.
2. The above clause relating to confidentiality shall remain in force for a period of five years after the completion of work under this Agreement but shall not in any case be deemed to extend to any information which the receiving party can show:
  - a. Was disclosed for the purposes of performing the services under this Agreement;
  - b. Was at the time of receipt published or otherwise generally available to the public;
  - c. Has after receipt by the Contractor been published or become generally available to the public otherwise than through the act or omission on the part of the Contractor;
  - d. Was already in the possession of the Contractor at the time of receipt without any restrictions on disclosure;
  - e. Was rightfully acquired from others without any undertaking of confidentiality imposed by the disclosing party;
  - f. Was developed by the Contractor independently of the services performed under this Agreement.

#### **Article 10 – Data Protection and Privacy**

The Contractor declares and acknowledges that it has read Article II,6 of the Contract concerning Data Protection and shall fully comply with all the terms and conditions thereof. The Contractor also undertakes that in carrying out its duties under this Agreement, it shall fully comply with the provisions of the relevant national and European legislation on data protection and privacy, including the Data Protection Directive 95/46/EC and any legislation on electronic commerce.

### **Article 11 – Conflict of Interest**

The Contractor shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the services under this Agreement. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during the performance of this Agreement must be notified to TE in writing without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

### **Article 12 – Termination**

1. This Agreement may be terminated by either party giving 45 days' notice in writing to the other without compensation due.
2. This Agreement may be terminated by the Contractor in the following circumstances:
  - a. If TE is in substantial breach of its obligations under this Agreement which is not remediable or which is not remedied after 30 days' notice in writing from the Contractor.
  - b. If TE is being wound up, is having its affairs administered by the courts, has entered into an arrangement with its creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations.
3. Without prejudice to any other rights TE has to reduce payments or claim reimbursements of payments made if the services are not performed in compliance with the terms of this Agreement, TE may terminate the Agreement upon written notice to the Contractor with immediate effect in the following circumstances:
  - a. If the Contractor is being wound up, is having its affairs administered by the courts, has entered into an arrangement with its creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations.
  - b. If a report submitted by the Contractor to TE reveals serious problems, delays or failure to comply with the terms of this Agreement, which are either irremediable or which are not remedied within the time specified by TE in a written notice to the Contractor.
  - c. In the event of a change or loss of staff involved in the services to be performed under this Agreement or a restructuring, merger or acquisition of the Contractor, which is likely to prejudice its performance hereunder.
  - d. In the event of a serious dispute with the Contractor which cannot be resolved within the Consortium;

- e. In the event of a failure to deliver any report or deliverable within the deadline specified by TE in a written notice to the Contractor.
- f. In the event of persistent errors in the reports or documents delivered.
- g. If the Contractor is in substantial breach of its other obligations under this Agreement which is not remediable or which is not remedied after 30 days' notice in writing from TE.
- h. In the event of termination of the Contract between TE and the Commission.

### **Article 13 – Liability**

1. The Contractor shall be solely liable for and shall indemnify TE against any and all claims, demands, costs and expenses made against or incurred by TE in respect or arising out of or resulting from:
  - a. Any negligent act, default or breach of statutory duty by the Contractor in the performance of the services under this Agreement;
  - b. Any substantial breach of its obligations under this Agreement;
  - c. Any infringement or alleged infringement of any copyright or other industrial property right or other statutory protection by any report or other material or deliverable supplied by the Contractor pursuant to this Agreement.
2. Neither party shall be liable under any circumstances and whether in contract, tort or otherwise, for any indirect or consequential loss or damage including without limitation loss of profits or of contracts.
3. The Contractor shall hold harmless and indemnify TE in the event of any claim from the Commission against TE, on any grounds, related in any way to the services rendered by the Contractor under this Agreement.
4. The Contractor shall take out insurance against risks and damage relating to the services to be performed under this Agreement if required by the relevant applicable legislation. The Contractor shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all relevant insurance contracts shall be sent to TE should it so request.
5. The right of indemnification detailed in the first paragraph of this Article also extends to claims by the Commission for liquidated damages under Article II.16 of the Contract. The rights of indemnification are also in addition to any rights TE has under this Agreement to reduce payments and claim reimbursements in the event the services are not performed in accordance with the terms hereunder.

### **Article 14 – Record Keeping**

1. The Contractor shall keep records and accounting justifications for all payments made under this Agreement for a period of five years from the date of the final payment to TE under the Contract with the Commission.
2. In accordance with the provisions of Article II.18 of the Contract, the Contractor agrees to submit to audits by the Commission, the Court of Auditors and any other agencies and outside bodies including OLAF. These bodies shall verify that the Contract with the Commission has been fully complied with.

### **Article 15– Amendments**



Any amendment to this Agreement, including changes to the Annexes, shall be in writing and shall be signed by the parties. An oral agreement shall not be binding on the parties.

#### **Article 16 – Recoveries**

1. If total, payments made exceed the amount actually due under this Agreement or if recovery is justified under the terms of the Agreement, including reimbursements of amounts pursuant to audits carried out under Article 13, the Contractor shall reimburse the amounts due within the time limits established in the Debit Note issued by TE.
2. Failure to reimburse the amount due within the time limit set by TE shall result in interest being charged at the rate specified in Article II.15.8 of the Contract.

#### **Article 17– Force Majeure**

Neither party shall be held in breach of its obligations under this Agreement if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform its contractual obligations owing to force majeure, it shall have the right to remuneration only for the services actually delivered.

#### **Article 18 – Applicable Law**

This Agreement shall be governed by Belgian Law and in the event of dispute the appropriate courts of Brussels shall be competent.

#### **Article 19 – Notices**

All formal notices to be served under this Agreement shall be validly served if sent by registered mail or recorded delivery to the address of the party to be served indicated at the front of this Agreement.

#### **Article 20– Language**

This Agreement has been drawn up in the English Language which shall govern the relations between the parties including all documents, meetings and notices to be served hereunder.

#### **Article 21 – Miscellaneous**

Nothing in this Agreement shall be deemed to create a partnership or agency between the parties.

#### **Article 22 – Annexes**

The following Annexes form an integral part of this Agreement:

Annex I - National Coalition: Services to be provided, deliverables and schedule

Annex II - Contract between DE and the European Commission  
Annex III - Tender Specification

Party 1:  
Name: PETER PALVOLGYI  
Title: COO  
Date: 14/06/2018  
Signature:



Party 2:  
Name: MICHALOPOVLAS MIKAS  
Title: Gen. Director on Ge. Dir of Public  
Administration  
Date: 11/6/2018  
Signature:

