



Organization for Security and  
Co-operation in Europe

## **CONFIDENTIALITY and NON-DISCLOSURE AGREEMENT** (*"Confidentiality Agreement"*)

### **Reference No. ITB/SEC/10/2021 - Provision of a Vehicle Tracking System**

THIS CONFIDENTIALITY AGREEMENT is made between:

The **Organisation for Security and Co-operation in Europe** (the "*OSCE*"), having its Secretariat located at Wallnerstrasse 6, Vienna, Austria, A-1010,

and

XXXXXX, (the "*Recipient*"), located at XXXXXX, XXXXX,

WHEREAS the Recipient is ready to receive confidential data, and information resulting from the Recipient's preparation of a tender proposal ("*Proposal*") for the OSCE.

WHEREAS the OSCE is willing to disclose such information to the Recipient on the condition that the Recipient does not disclose same to any third party, or make use thereof in any manner except as set out herein.

**NOW, THEREFORE**, the Parties have agreed as follows:

### **1 DEFINITIONS**

1.1 "*Confidential Information*" means any data, documents, specifications, and other information or materials in whatever form disclosed by the OSCE to the Recipient in the form of the ITB/SEC/10/2021, whether documentary, orally, visually, or otherwise (including computerised form) except information which the OSCE, on request of the Recipient, establishes was:

- (a) in the public domain at the time of disclosure;
- (b) known to the Recipient prior to obtaining the same pursuant to this Confidentiality Agreement;
- (c) obtained by the Recipient from a third party who did not receive the same directly or indirectly from the OSCE under a confidentiality agreement with the OSCE.

1.2 "*OSCE*" means the Organization for Security and Co-operation in Europe, including the OSCE Secretariat, Institutions (the OSCE Secretariat, the Office of the High Commissioner on National Minorities (HCNM), the Office of Democratic Institutions and Human Rights (ODIHR) and the Office of the Representative on Freedom of the Media) and Field Operations (Missions, Centres, Groups, Presences, Project Coordinators and any other field operations), whichever is or are applicable.

1.3 "*Party*" means the OSCE or the Recipient and "*Parties*" means the OSCE and the Recipient.

1.4 "*Permitted Purpose*" means the use of the Confidential Information to facilitate the Recipient preparing the Proposal.

- 1.5 **"Recipient"** means the person or entity named as 'Recipient' above.
- 1.6 **"Proposals"** means the Technical Proposal and the Financial Proposal to be submitted to the OSCE by the established closing date related to ITB/SEC/10/2021.
- 1.7 **"ITB/SEC/10/2021"** means the competitive tender documents pertaining to the Provision of a Vehicle Tracking System.

## **2 OBLIGATIONS OF THE RECIPIENT**

2.1 In respect to the Confidential Information, the Recipient hereby undertakes:

2.1.1 to hold in trust and confidence and not to disclose the Confidential Information to any third party without the express, prior written consent of the OSCE.

2.1.2 not to use the Confidential Information for any purpose whatsoever other than for the Permitted Purpose.

2.1.3 only to disclose the Confidential Information to those of its employees, consultants and/or advisors to whom disclosure is necessary for the Permitted Purpose and then only on the understanding that such employees, consultants and/or advisors are expressly subject to the provisions of this Confidentiality Agreement.

2.1.4 to keep a written record of all employees, agents and contractors who will have access to the Confidential Information disclosed under this Confidentiality Agreement.

2.1.5 not at any time other than to the extent that is necessary for the Permitted Purpose to make copies of or reduce the Confidential Information to any electronic form or to store it in a database or other electronic media.

2.1.6 to comply with all requirements of the OSCE for the security of the Confidential Information.

2.1.7 to treat Confidential Information as being confidential and proprietary to the OSCE by using the same degree of care, but in any case no less than a reasonable degree of care, to prevent unauthorised use, dissemination or publication thereof, as it uses to protect its own confidential information of a similar nature.

## **3 INDEMNIFICATION**

The Recipient shall be responsible to the OSCE for any unauthorized use or disclosure of the Confidential Information. Without limitation, the Recipient shall indemnify, save and hold harmless the OSCE from any unauthorized use or disclosure of the Confidential Information.

## **4 ACCRUED RIGHTS**

Nothing in this Confidentiality Agreement shall be construed as granting the Recipient, by implication or otherwise, any right whatsoever with respect to the Confidential Information or part thereof.

## **5 PRIVILEGES AND IMMUNITIES**

No provision of this Confidentiality Agreement shall be deemed, or interpreted as, a waiver of the privileges and immunities enjoyed by the OSCE.

## **6 AMENDMENT**

No modification, amendment or change to this Confidentiality Agreement, or waiver of any of its provisions, or any additional contractual relationship with the Recipient shall be valid unless approved in the form of a written amendment to this Confidentiality Agreement, signed by a fully authorized representative of each Party.

## **7 ENTRY INTO FORCE**

This Confidentiality Agreement shall enter into force on the date of the last signature by or on behalf of both Parties. The Recipient will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the competitive tender exercise.

## **8 MISCELLANEOUS**

8.1 Non-Disclosure. The Parties agree that each of them shall not, without the prior consent of the other in writing, disclose to any third party the terms of this Confidentiality Agreement, or the content, nature or extent of the discussions proceeding in connection herewith.

8.2 Severability. If any provision of this Confidentiality Agreement shall be held invalid or unenforceable for any reason, such invalidity and/or unenforceability shall not affect the enforceability of any remaining provisions of this Confidentiality Agreement.

8.3 Waiver. No waiver of any provision of this Confidentiality Agreement shall be enforceable unless in writing and signed by the party against whom enforcement is sought. No failure or delay by either party in exercising any right under this Confidentiality Agreement shall operate as a waiver or preclude enforcement of any other right hereunder.

8.4 Entire Agreement. This Confidentiality Agreement constitutes the entire understanding between the Parties relating to the protection of Confidential Information disclosed hereunder and supersedes all prior and collateral communications, representations and understandings between the Parties hereto relating to the exchange of Confidential Information.

8.5 Governing Law. This Confidentiality Agreement shall be governed by, and construed in accordance with, the substantive laws of the Republic of Austria.

8.6 Signatures and Dates. This Confidentiality Agreement is to be signed and dated and submitted by an authorised representative of the bidder and in electronic form. .

The Recipient confirms that they have read, understood and accepted the conditions laid down above and they declare that they will respect the confidentiality of any information which is linked, directly or indirectly, to the preparation of the Proposal pertaining to the ITB/SEC/10/2021 and they will not divulge to third parties or use for his/her own benefit or that of any third party any document or information not available publicly, even after completion of the tender exercise.

IN WITNESS WHEREOF, the Parties hereto have executed this Confidentiality Agreement.

Signed by:

Signed by:

\_\_\_\_\_

\_\_\_\_\_

(for the Recipient)

(for the OSCE)

Date \_\_\_\_\_

Date \_\_\_\_\_