

Contract of concession of competent ID issuer in Estonia on the basis of the Tobacco Act, Directive 2014/40/EU of the European Parliament and of the Council and Commission Implementing Regulation 2018/574”

Ministry of Social Affairs (registration code: 70001952, registered office Suur-Ameerika 1, Tallinn (hereafter “customer”), represented by Secretary General Marika Priske on the basis of Statutes of the Ministry of Social Affairs

and

Alexis s. r. o (registration code: 36866865, VAT: SK2022967232, registered office Stare Grunty 1/B 84104 Bratislava Slovak Republic.) (hereafter referred to as “contractor”), represented by Jana Rovčaninová, on the basis of *articles of association*.

hereafter collectively as parties or individually as party, entered into this Contract for Services (hereafter “Contract”) as *follows*:

1. General provisions

- 1.1. The contract will be awarded as a result of a public procurement contract “The award of concession of competent ID issuer in Estonia on the basis of the Tobacco Act, Directive 2014/40/EU of the European Parliament and of the Council and Commission Implementing Regulation 2018/574” (reference No223543) under the conditions laid down in the procurement documents and on the basis of the information provided in the successful tender.
- 1.2. The contract governs the relations, rights, obligations and responsibilities of the parties in the performance of the service which is the subject of the contract.
- 1.3. The procurement documents, the successful tender and written notices between the parties shall form an integral part of the contract.
- 1.4. The Agreement shall, at the time of its conclusion, contain the following annexes:
 - 1.4.1. Annex 1. Technical Specifications.
- 1.5. The parties shall treat the contract and its annexes as an indivisible whole and interpret each document in the light of the whole.

2. Subject of the contract

- 2.1. The subject of the public procurement is the award of a concession contract to the competent ID issuer for Estonia (contractor) responsible for issuing unique identifiers for unit packets and aggregated packaging of tobacco products and for issuing identification codes to economic operators in accordance with Commission Implementing Regulation 2018/574, as well as in accordance with Directive 2014/40/EU of the European Parliament and of the Council and the relevant provisions of the Tobacco Act (hereafter also referred to as “the service”).
- 2.2. The contractor shall have the right to charge economic operators for the provision of unique identifiers for unit packets and aggregated packets of tobacco products. No fee may be charged for identification codes issued to economic operators, facilities and machinery. No payments are made by the customer or Estonian State authorities on the basis of this contract. For unique identifiers to be issued to unit packets, the contractor may charge economic operators a fee up to the maximum amount specified in the contract. When charging a fee for unique identifiers for aggregated packaging, the contractor shall take into account that, in accordance with Commission Implementing Regulation 2018/574, Article 3(9), the fees shall not be discriminatory and shall be proportionate to the number of unique

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identifiers created and issued to economic operators, taking into account the mode of delivery.

- 2.3. From 1 October 2020, as is laid down in the Tobacco Act, the competent ID issuer for all tobacco products placed on Estonian market shall be the entity appointed for Estonia, i.e. after that date the unique identifiers for tobacco products placed on the Estonian market are issued by the contractor. Before that date, the unique identifier issued for unit packets of tobacco products produced in European Union and placed on Estonian market shall be the entity designated for the Member State in which they are produced and tobacco products bearing such identifiers may be marketed in Estonia until the unique identifier expires.

3. Contract value

- 3.1. The contractor shall issue unique identifiers for unit packets up to 0,00029 EUR/UID exclusive of VAT, possibly supplemented by VAT in accordance with the procedures laid down by law.
- 3.2. The contractor shall charge the economic operators for the unique identifiers for unit packets and aggregated packaging. It is forbidden for an executor to charge other additional fees. The executor bears the commercial risk of performing the contract.

4. Service provision

- 4.1. The service shall be provided in accordance with the conditions laid down in the contract and its annexes and in accordance with the European Union and Estonian legislation to which they refer. More detailed requirements for the provision of the service are laid down in European Commission Implementing Regulation 2018/574.
- 4.2. The contractor shall issue unique identifiers for unit packets and aggregated packaging of tobacco products in Estonia.
- 4.3. The contractor shall issue identification codes for operators, facilities and machinery.
- 4.4. The contractor shall ensure that the service is provided in a timely, high-quality and legally compliant manner.
- 4.5. The contractor shall carry out all work and activities which are not provided for in the contract and its annexes but which, by their nature, form part of the work relating to the provision of the service.
- 4.6. The contractor shall ensure that he/she is provided with, and during the period of performance of the contract, a unique identifier in accordance with Commission Implementing Regulation 2018/574, Article 3(4).
- 4.7. The contractor shall ensure that during the period of validity of the contract it complies with the independence requirements laid down in Commission Implementing Regulation 2018/574, Article 35(1) and (2).
- 4.8. Where the contractor uses subcontractors for the provision of the service, it shall be responsible for the activities of the subcontractors as if it were its own, including for ensuring that the subcontractors comply with the independence requirements laid down in Commission Implementing Regulation 2018/574, Article 35(2).
- 4.9. If, in the course of performance of the contract, it is necessary for the contractor to engage subcontractors, including in the event of an addition or change of subcontractors, the contractor must communicate to the customer, within 30 calendar days of the appointment of the subcontractor, the identity of the subcontractors and proof that the subcontractor complies with the independence requirements laid down in Article 2018(574) of Commission Implementing Regulation (EC) No 35/2.

- 4.10. The contractor shall inform the customer immediately of any circumstances which may affect its independence or that of its subcontractor, in accordance with the requirements laid down in Commission Implementing Regulation 2018/574, Article 35(5), (7).
- 4.11. The contractor shall provide the service in accordance with his or her professional knowledge, skills and abilities by using, in the provision of the service specified in the contract, a workforce whose training, skills and experience are appropriate to the scale, nature and complexity of the service.
- 4.12. The issuing of unique identifiers and identification codes is done electronically, via a self-service online platform in Estonian and English. The technical support to applicants for unique identifiers and identifiers may be electronic. The competent ID issuer shall ensure that users' questions are answered within at least three working days in Estonian or English, according to the language in which the question is asked.
- 4.13. At the request of the customer, the contractor shall be obliged to disclose the information concerning the performance of the contract to the customer, and to make it possible for the customer to verify the progress and quality of the service.
- 4.14. The contractor shall undertake to keep and, where appropriate, make it available to the competent authorities the information on the unique identifiers and identification codes issued. The executor shall create flat files which shall allow to identify all information encoded in the unique identifier and, where appropriate, transmit it to the competent authorities.
- 4.15. The contractor shall submit to the contracting authority, by 1 July and 1 January of each calendar year, a report on the performance of the service, including the total number and total value of the unique identifiers issued by that date for unit packets and aggregated packaging and of the identification codes issued to economic operators, facilities and machinery.
- 4.16. The contractor shall develop an exit plan laying down the procedure to be followed to guarantee the continuity of the operations until the new ID issuer is appointed. Before the termination of the contract, the executor shall ensure the transfer of the data necessary for the continuation of the service and cooperation with the new competent identifier issuer.
- 4.17. The contractor undertakes to inform the contracting authority as soon as possible of any circumstances which prevent or are likely to impede performance of the contract, e.g. bankruptcy proceedings against the contractor.

5. Information exchange

- 5.1. The parties shall be obliged to inform each other in a in a format which can be reproduced in writing, e.g. by e-mail, of any circumstances which may affect or impede the performance of the agreed obligations or the realisation of rights.
- 5.2. All notifications and information relating to the performance of the contract or to any dispute arising from it shall be formally submitted, in a format which can be reproduced in writing, to the authorised representative of the other Party.
- 5.3. If the communication has significant legal effects, the communication to the other party must be made in writing, including, for example, the parties' requests to terminate the contract, as well as the party's claim to the other party as a result of the breach of the contract, etc. The digitally signed form is equated to the written form.
- 5.4. Written notification shall be deemed to have been received by the party if it is delivered against signature or if it has been sent by registered letter from the postal authorities to the address notified by the party and 7 calendar days have elapsed since the date of posting. E @-@ mail, including digitally signed documents, shall be deemed to have been sent at the time indicated in e @-@ mail.

5.5. The Parties shall reply to the notifications within 5 working days of receipt of the notification.

6. Liability

- 6.1. The parties are liable for improper performance or non-performance of the obligations set out in the contract, including actions by the persons they engage in the exercise of their rights and obligations.
- 6.2. In the event of a breach by the contractor of its obligations under the contract or the related European Union or Estonian legislation, the customer shall have the right to impose penalties of up to 1 % of the estimated value of the concession contract as defined in the procurement documents.
- 6.3. In the event of a material breach of obligations by the contractor under the contract or under European Union and Estonian law relating thereto, the customer shall have the right to impose penalties of up to 5 % of the estimated value of the concession contract as defined in the procurement documents. Serious breaches include repeated or persistent breaches of the contract.
- 6.4. Penalties have been agreed to ensure the fulfilment of the obligation and do not to replace the fulfilment of the obligation.
- 6.5. The party liable for payment of the penalties shall be obliged to pay the penalties within 30 calendar days from receiving a request to that effect from the entitled party.
- 6.6. Where it is possible to impose penalties for the same infringement under several provisions or to apply different remedies for the same infringement, the party entitled to do so shall choose the remedy.
- 6.7. If the contractor fails to fulfil its obligations under the contract (e.g. does not issue unique identifiers or identifiers within the deadline specified in Commission Implementing Regulation 2018/574, does not respond to technical support questions within the deadline specified in the concession contract, does not ensure the functioning of the web service, issues faulty unique identifiers or identification codes etc.), does not correct the defective service or does not perform a new service instead of the defective service and the delay of the operator can be considered a material breach of the contract, the customer may terminate the contract as an extraordinary case.
- 6.8. The parties shall not be liable for any breach of their contractual or legal obligations where the breach was caused by force majeure. Force majeure is defined as the unforeseeable situations and events described in Section 103(2) of the Law of Obligations Act which are beyond their control or other events recognised as force majeure by the law and case law of Estonia.

7. Submitting complaint

- 7.1. If a party considers that the other party has breached the terms of the contract, it shall lodge a complaint within 30 working days from becoming aware of the breach.
- 7.2. In the complaint, the party shall define the shortcomings identified and set a deadline for their correction. The customer may require the defective service to be repaired or a new service to be performed, provided that this does not result in unreasonable costs or unreasonable inconvenience for the contractor. Where the contractor breaches a contractual obligation the remedy of which is not possible or where the customer has no interest in remedy, no time limit shall be set for remedying the defects.
- 7.3. If a party disagrees with the claim, it shall be entitled to commission an expert's report to assess the adequacy of the service from an independent expert accepted by both parties. In such case, the costs of the expert's report shall be borne by the party who, according to the results of the expert's report, was mistaken.

8. Confidentiality

- 8.1. For the duration of the contract and for an indefinite period after the expiry of the contract, the contractor shall keep the confidentiality of any information which has come to his knowledge in connection with the performance of the contract, or the confidentiality of which the customer or the economic operator requesting unique identifiers or identifiers is presumed to have a legitimate interest.
- 8.2. Disclosure of confidential information to third parties shall be permitted only with the customer's prior written consent. The confidentiality requirement laid down in the Agreement does not extend to cases where a party is legally obliged to disclose information.
- 8.3. The contractor shall ensure that his agents, employees, contractors and any other persons whom he engages in the performance of his duties are aware of the obligation of confidentiality laid down in this contract and require those persons to comply with that obligation unconditionally and indefinitely.

9. Authorised representatives

- 9.1. The customer's authorised representative for matters relating to the performance of the contract shall be Triinu Täht, tel. +3726269142 E @-@ post triinu.taht@sm.ee.
- 9.2. The authorised representative of the contractor for matters relating to the performance of the contract shall be Vladimir Rovčanin, tel +421901703988.....E @-@ post vladimir.rovcanin@allexis.com
- 9.3. The parties may, where justified in the course of performance of the contract, modify the identity of the authorised representatives by e-mail to the other party and the change of contact details shall not be considered as an amendment to the contract. If the change of contact details is notified, the notification shall be deemed to have been duly transmitted if it has been sent to the party using the contact details specified in the contract.

10. Conclusion and amendment of the Agreement

- 10.1. The Agreement shall enter into force upon signature by the Parties. As soon as the contract enters into force, the contractor must start providing the service and cooperate with the Ministry of Social Affairs and the temporary ID issuer for Estonia to start providing the service, including taking over the data on the unique identifiers and identifiers already issued. The contractor shall also cooperate with those tobacco business operators who so request in order to ensure the smooth implementation of the system.
- 10.2. The contract ends 5 years after the date laid down in the Tobacco Act (1 October 2020), from which the competent ID issuer for all tobacco products placed on Estonian market shall be the entity appointed for Estonia, or upon the fulfilment of the estimated value of the concession contract, whichever comes first.
- 10.3. The parties may amend the contract under the conditions laid down in Section 123 of the Public Procurement Act.
- 10.4. Amendments to the Contract shall take the form of an annex to the Contract.
- 10.5. The duration of the contract shall be taken into account by the parties when concluding the contract. If circumstances arise which make it impossible to proceed with the contract, the party which became aware of those circumstances shall inform the other party of the need to terminate the contract at least 6 months in advance.

11. Other provisions

- 11.1. Where the contractor transfers its contractual obligations without the customer's agreement, the customer shall have the right to terminate the contract and the contractor shall be obliged to compensate the customer for any damage suffered by it, including any

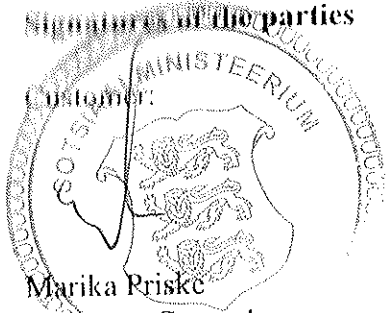
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costs incurred by the customer as a result of finding a new contractor, and to pay to the customer, at its request, a penalty of EUR 5000.

- 11.2. In case of inconsistency between the Estonian-language procurement documents and the procurement documents translated into English, the Estonian-language procurement documents shall be the basis of the procurement documents.
- 11.3. If any of the provisions of the contract proves to be incompatible with the legislation in force in Estonia, the validity of the remaining provisions shall not be affected.
- 11.4. The language in which the contract is to be performed for communication with the contracting authority shall be Estonian or English.
- 11.5. The executor is aware that the contract is public to the extent provided for in the Public Information Act.
- 11.6. Disputes relating to the contract which have not been settled by negotiation between the parties shall be referred to the Harju County Court and settled in accordance with the law of the Republic of Estonia.

Signatures of the parties

Customer:



Marika Priske
Secretary General
Ministry of Social Affairs

Contractor:

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