

Service Contract on State Procurement № 14

for the Provision of Advisory Services in relation to Amendments to the Investment Agreement (CPV 79100000) signed on October 3, 2016 between the Government of Georgia and Anaklia Development Consortium LLC relating to the build, operation and transfer of the Anaklia Deep Water Black Sea Port
15 March 2019

On the one hand,

LEPL – Anaklia Deep Water Sea Port Development Agency

12 Kazbegi ave., Tbilisi, 0160, Georgia

ID Number: 204588455

(hereinafter referred to as the “Agency” or the “Client”)

On the other hand,

White & Case LLP

(identification code: 302980685)

Address:

Currency: USD

Bank Name: Le Crédit Lyonnais

Bank Address: 19 Boulevard des Italiens 75079 Paris Cedex 02

Bank account: 0000003164C

Swift/BIC: CRLYFRPP

IBAN: FR78 3000 2005 7400 0000 3164 C95

(Hereinafter referred to as “White & Case” or the “Consultant”)

Being also referred to as the “Parties” or a “Party” as the case may be.

WHEREAS the Client has asked the Consultant to provide legal advisory services in relation to amendments to the investment agreement executed between Government of Georgia and LTD “Anaklia Development Consortium” (the **Investor**) on 3 October 2016 related to Build, Operation and Transfer of Anaklia Port (hereinafter - the Investment Agreement).

WHEREAS the Consultant hereby accepts to perform activities that are necessary to render the advisory services to assist and represent the Agency in connection with the Investment Agreement as described under Mission A, Mission B and Mission C (the “Services”).

This agreement constitutes the State procurement contract under legislation of Georgia.

Terms defined in this Agreement shall have the same meaning as used in the Investment Agreement unless defined otherwise.

On the basis of the #2440 Order of the Government of Georgia, dated 26 December 2018 and the Law of Georgia on State Procurement, Article 10¹, section 3(d) (SMP Module registration number SMP180002521) the Parties have entered into this agreement (hereinafter the “Agreement”) as follows:

1. Obligations of the Consultant

1.1. The Agreement has the objective to engage the Consultant for the Services listed in Article 2 of the Agreement and in accordance with terms and conditions set out in this Agreement (including in appendix #2 of the Agreement).

1.2. The Consultant shall be fully responsible for acts or omissions of its representatives.

1.3. The Consultant shall have the sole and full responsibility for the performance of the Services, in good faith and based on best international practice. During the course of the provision of the Services, the Consultant shall co-operate with other advisors (technical, legal etc.) employed by the Client for the

execution of the project under the Investment Agreement and duly support them in case respective issues arise.

1.4. The Consultant shall provide answers and recommendations to the questions of the Agency.

1.5. The Consultant shall review comments provided by other state/non state entities and provide recommendations regarding the Services listed in Article 2 of the Agreement.

1.6. The Consultant shall, if necessary, participate in meetings, discussions, conference calls with the Agency, the Investor and their consultants in relation with the Services.

1.7. The Consultant shall provide any other necessary assistance to the Agency in relation with the issues listed in Article 2 of the Agreement.

2. Scope of Work

Mission A - Preparation of term sheets for amendments to the Investment Agreements

The Services shall include, but shall not be limited to:

- i) Preparation of term sheets for amendments to the Investment Agreement to be concluded with the Investor and Lenders after receiving request from the Agency to commence the works;
- ii) Render consultations, give recommendations, provide opinions on legal issues.
- iii) Attend discussions/meetings at the Agency if requested.

Mission B - Preparation/revision of amendments to the Investment Agreement

The Services shall include, but shall not be limited to:

- i) Drafting amendments to the Investment Agreement/revising amendments proposed by the Investor and Lenders after receiving request from the Agency to commence the works.
- ii) Provide recommendations on main terms;
- iii) List critical legal issues of the Investment Agreement;
- iv) Provide feedback and clarifications on questions, comments and concerns of the Agency related to amendments to the Investment agreement;
- v) Render consultations, give recommendations, provide opinions.

Mission C - Assisting the Agency in negotiations related to amendments to the Investment Agreement with the Investor and Lenders

The Services shall include, but shall not be limited to:

- i) Assist the Agency in negotiations related to amendments to the Investment Agreement with the Investor and Lenders;
- ii) Provide feedback on draft amendments provided by the Investor and Lenders;
- iii) Assist in (or participate in) negotiations related to amendments to the Investment Agreement in line with the instructions of the Agency, acting in the best interests of the Government of Georgia;
- iv) Make respective amendments and updates to the Investment Agreement as required;
- v) Attend discussions/meetings at the Agency if requested;

vi) Assist in finalization of amendments to the Investment Agreement and closing of respective negotiations.

Optional Mission – Analysing the legal implications of the Investment Agreement’s termination by the State of Georgia

This optional mission (the “**Optional Mission**”) consists in the preparation and circulation to the Client of a comprehensive legal memorandum analysing the legal implications of the Investment Agreement’s termination by the State of Georgia. The Consultant shall provide initial draft of the above referred legal memorandum within twenty (20) working days from the receipt of the request from the Client.

3. Client's Obligations

- 3.1 During the Consultant’s team's assignment in Georgia (if required), the Client shall provide at its expense local office facilities, Internet and team assistant.
- 3.2. The Client shall further ensure that the Consultant’s experts have access to all information available with the Client related to the Investment Agreement to the extent necessary for the expedient conduct of the Services.
- 3.3. Thus the Client within its competence shall cooperate with White & Case to provide all the reasonable assistance necessary for the performance of the Services.
- 3.4. The Consultant shall be entitled to rely on all information related to the Investment Agreement provided by the Client.

4. Term of the Services and Effectiveness of the Agreement

- 4.1. The term of the Services is expected to be 30 June 2019.
- 4.2 This Agreement shall come into force as of the date of its signature by both parties.
- 4.3. This Agreement shall be effective until 31 July 2019.

5. Fees

- 5.1. The monthly capped amounts of White & Case’s professional fees, without any taxes and fees, for the Services are indicated in appendix #1 of the Agreement.
The Optional Mission shall be completed for a twenty thousand (20,000.00) US Dollars lump sum amount.
- 5.2. White & Case will charge for its services on an hourly basis. The hourly rates for the attorneys on this matter are:
USD 840 for Mr. Charles Nairac (Partner),
USD 650 for Mr. Francois-Guilhem Vaissier (Partner),
USD 575 for Mr. Olivier Le Bars (Senior Associate),
USD 425 for Ms. Diane Houriez (Junior Associate), and
USD 200 for any law clerk.
- 5.3 The total cost for professional fees will be payable on a monthly basis. Herewith the payment shall be made by the Client on the basis of submitted invoices and acceptance-delivery acts concluded between the parties to this Agreement. For this purpose Mr. David Javakhadze, Director of the Agency or Ms. Magda Bolotashvili, Deputy Director of the Agency shall be authorized to sign such delivery-acceptance acts on behalf of the Client.
- 5.4. All fees throughout the Services shall be invoiced to the Client after completion of respective services.
- 5.5. Invoices shall be payable within 20 days of signing a delivery and acceptance act. All payments are subject to laws of Georgia.

5.6. The capped amount of White & Case's fees and expenses for each 2 day trip by 1 expert would amount to USD 2 700,00, without any taxes and fees, including travel, accommodation and all related expenses.

6. Taxation

6.1. The remuneration payable to the Consultant according to article 5 does not include any taxes (e.g. value added taxes/reverse charge VAT, withholding taxes, and others), levies or other fees which may be payable under the laws of Georgia. Any such taxes, levies or other fees shall be borne by the Client in Georgia, if applicable.

6.2. Invoices submitted by White & Case to the Client shall include detailed information on fees for services rendered by each person involved in this engagement. The final total value shall be determined in accordance with the acceptance and delivery acts signed for the actual service, but not more than the total estimated value of the Agreement.

6.3. The source of funding: appropriations for LEPL Anaklia Deep Sea Port Development Agency allocated from the State Budget of Georgia of 2019.

7. Reporting and Monitoring

7.1. The Agency is entitled to monitor and control fulfilment of the obligations imposed on the Consultant under the Agreement, at any stage of implementation of this Agreement.

7.2. Monitoring and Control shall be carried out by an authorized person on behalf of the Agency –Director or Deputy Director.

7.3. Consultant shall, promptly and at its own expense correct all shortcomings revealed as a result of such inspections.

8. Confidentiality

8.1. All information and documents provided by the Client to the Consultant shall be regarded as Confidential Information.

8.2. The Consultant recognises that it will be granted access to confidential information regarding the business and affairs of the Client. In consideration of the Client making such Confidential Information available to it, the Consultant undertakes as follows:

8.2.1. To keep all Confidential Information received private and confidential, and not to disclose it to any other persons or entity, unless authorised by the Client.

8.2.2. To use the Confidential Information provided by the Client solely for the purpose of rendering the Services, as provided by this Agreement, and not for any other purpose whatsoever.

8.2.3. To return to the Client all Confidential Information received in writing as soon as practicable after the date on which such information is not necessary or useful anymore for the performance of the Consultant's obligations under this Agreement, and, in any event, on the date of termination of this Agreement.

9. Conflict of Interest

9.1. It is acknowledged by the Consultant that it has no conflict of interest and no potential conflict of interest with:

the Investor its direct and/or indirect shareholders (the "Shareholders"), affiliates and contractors, and it has not been, is not and does not intend to involve in any type of consultancy, advisory or any other type of work or relation with the Investor, the Shareholders, or affiliates and contractors of the Investor; or Any current sea port of the Black Sea, including sea ports of Georgia (Poti Port and Batumi Port), its shareholders and operators (APM Terminals, PACE Georgia, Batumi International Container Terminals, BICT, International Container Services, LTD "Batumi Port Holding Limited", and Batumi Terminal Limited), (collectively, the "Other Ports") and it does not currently have any kind of engagement including but not limited to any type of consultancy, advisory or any other type of work or relation with the Other Ports;

9.2. It is also acknowledged that the Consultant is not currently involved in any kind of works, cooperation or activities with the Investor, the Shareholders, or affiliates and contractors of the Investor; or the Other Ports that may give raise to conflict of interest under the Agreement.

9.3. It is agreed that upon occurrence of any conflict of interest or any potential conflict of interest with the Investor, the Shareholders, or affiliates, shareholders and contractors of the Investor, or the Other Ports, the Consultant shall immediately inform the Agency and the Parties may agree on ways of elimination of the conflict of interest. If the parties do not reach agreement, the Agency will be entitled to unilaterally terminate the Agreement, without having any liability for any kind of compensation to the Consultant.

9.4. The breach of the obligation set out in this clause by the Consultant, shall be considered as a material breach of the Agreement.

9.5 The list of existing contractors of the Investor, known to the Agency include: Van Oord Dredging and Marine Contractors BV; Maritime and Transport Business Solutions B.V; Royal Haskoning DHV; Van Wijngaarden Groothandel B.V.; Dynasafe Group (part of the Bactec Group); GeoGlobe; Ruka Mapping LLC. SLR International Corporation; RPS Energy Consultants Limited; Moffat and Nicols; Egrisi Development Company; Conti TBC Georgia; Gergili LLC; and Ecoline International Ltd; ACT LLC.

9.6. The list of current Shareholders of the Investor include: Anaklia Holding JSC, TBC Holding, TBCH Anaklia, TBC holding, Conti Group, Wondernet Express LLP, G Star LTD, Mamuka Khazaradze, Curt Conti.

10. Disputes and Arbitration

10.1. Any dispute between the Client and the Consultant arising out of this Agreement shall be settled by mutual agreement between the contracting Parties.

10.2. If the Parties are unable to reach an agreement on any question in dispute or on a mode of settlement, then any dispute arising out of or in connection with this Agreement shall be finally settled under the rules of Arbitration of the International Chamber of Commerce. The number of arbitrations shall be three, the place of any arbitration shall be New York, New York. The English language shall be used in any arbitral proceeding and all documents shall be provided in the English language or with translations into the English language.

This agreement to arbitrate constitutes a waiver of any right to sovereign immunity from execution to which Georgia/the Agency might otherwise be entitled with respect to the recognition and enforcement of any award rendered by an arbitral tribunal constituted pursuant to this Agreement.

The following categories of property shall be immune from enforcement proceedings:

- a. Property to the extent used or intended for use for the exercise of diplomatic rights. Including Georgia's diplomatic missions, consular posts, special missions, missions to international organizations or to international conferences and including their furnishings, means of transportation and funds held in bank accounts for use in funding such missions, posts, organizations and/or conferences;
- b. Property of a military character or used or intended for use for military purposes.
- c. Property constituting or forming part of the essential cultural heritage of Georgia or part of its archives and not placed or intended to be placed or sale, including museums, archaeological sites and artefacts, libraries and related historical preservation and research facilities, cemeteries monuments and other similar property;
- d. Property forming part of an exhibition of objects of scientific or historical interest which is outside the territory of Georgia and not placed or intended to be placed on sale;
- e. Ships and aircraft to the extent used for governmental service;
- f. Physical assets being used to perform essential government functions, such as parliament and governmental buildings and their furnishings;
- g. Property of the judiciary, such as court buildings and their furnishings; and
- h. Property of public health care welfare and educational, as well as that of the police and other law enforcement systems.

11. Amendments

11.1. Any modifications to this Agreement shall be effected by amendments to this Agreement in writing to be mutually agreed between the Parties hereto.
11.2. The change in the terms of this Agreement, including the change in the fees is unacceptable if the change results in increasing the total value of the Agreement or in worsening the terms of the Agreement for the Agency, with the exception of cases specified under Article 398 of the Civil Code of Georgia. The review of the terms of the Agreement shall meet the conditions established under the legislation of Georgia.
11.3. If the circumstances under Article 398 of the Civil Code of Georgia take place, the initial contract value shall not be increased by more than 10%.

12. Termination

12.1. The Client and the Consultant shall each have the right to terminate this Agreement with 2 weeks prior notification, if they reasonably consider that the continued implementation of the Agreement is impossible or impractical for unforeseen causes beyond the control of the Client or the Consultant. If the Agreement should be terminated, the Client shall complete all payments which are due up to the effective date of termination and the Consultant shall deliver all work in process.
12.2. This Agreement is made in three originals, in English and Georgian languages, all texts being equally authentic. In the event of any difference in the interpretation, English version shall prevail.
12.3. The representative of the Agency, by signing this Agreement, confirms that he fully satisfies the conditions set out by Article 8 of the Law of Georgia “on State Procurement” related to avoiding the conflict of interest.

For and on behalf of White & Case LLP

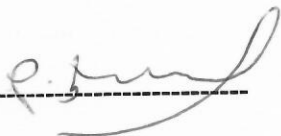
François-Guilhem Vaissier



I accept the terms set out above and below and the accompanying terms of engagement

For and on behalf of LEPL Anaklia Deep Sea Port Development Agency

David Javakhadze, Director



I accept the terms set out above and below and the accompanying terms of engagement

<i>Missions</i>	<i>Monthly Caped Fees for the Missions</i>
A. Preparation of term sheets for amendments to the IA (the "Mission A")	USD 15 000,00
B. Preparation/revision of amendments to the Investment Agreement (the "Mission B")	USD 20 000,00
C. Assisting the Agency in negotiations related to amendments to the Investment Agreement with the Investor and Lenders (the "Mission C")	USD 12 000,00
Total	USD 47 000,00

General terms of legal assistance

1. Identity of the client

The client is the only the Client and no other person may claim to be the client in connection with the matter without our prior written consent.

2. Processing of personal data

White & Case may need to collect, handle and disclose data of a personal nature relating to the Client or the Client's employees, agents, suppliers, sub-contractors and other persons, which you have supplied in accordance with applicable laws and regulations and with the consent of the persons in question. Anyone whose personal data we hold may request a copy of the data concerning them which is in the possession of White & Case. They may also request that White & Case modify, update or delete the personal data concerning them and, in certain cases, they may make an objection to the handling of personal data.

3. Professional secrecy

In accordance with applicable professional standards, White & Case has a duty to keep any information received in the context of an engagement confidential. Therefore, if White & Case has such information from another client, it cannot disclose it to you even if that information is relevant to your matter.

4. Representation of other clients

As a condition of White & Case undertaking this matter, it should be understood that White & Case may continue to represent or undertake to represent existing or new clients even if those clients' interests are directly adverse to Client's in matters substantially unrelated to this engagement regardless of their magnitude and importance. This shall include arbitration and litigation. No attorney or staff member or any affiliated person employed at White & Case working on this engagement, as well as facts gathered during the engagement shall be involved in such an adverse representation.

Under applicable rules of professional responsibility, White & Case is obliged to avoid revealing information acquired as a consequence of the representation of any client *inter alia* the Client. Therefore, if White & Case has such information from another client *inter alia* the Client, White & Case cannot disclose it to the client *inter alia* Client even if that information is relevant to the Client's or the other client's representation.

5. Bar

White & Case is registered with the *Ordre des Avocats de Paris* (11, place Dauphine, 75053 Paris cedex 01) under number J002 and lawyers registered with the Paris Bar are covered by the professional liability insurance subscribed by the *Ordre des Avocats de Paris* on behalf of all lawyers registered with the Paris Bar.