APPENDIX A - To be used by candidates and subcontractors

DECLARATION ON THE FULFILMENT OF QUALIFICATION CRITERIA

To: The Commission in charge with the tender process

Regarding: tender process for designating the provider/providers of the measurement, monitoring and data reporting on audiovisual media services accessible on the territory of Romania for the period 01 January 2029 - 31 December 2032.

I. Identification of the Economic Operator

Economic operator (full legal name): _____

Registered office: _____

Registration / incorporation number: _____

VAT / tax identification number: _____

Represented by (name and position): _____

II.A. Module(s) for Which the Economic Operator Will Submit a Tender

Please mark the applicable module(s):

☐ **Module (i)** – Establishment Survey

☐ **Module (ii)** – The measurement of the audiovisual media services which are accessible on the territory of Romania, and which are eligible to be a subject-matter of such measurements

☐ **Module (iii)** – Monitoring of programmes, audiovisual commercial communications and announcements made by broadcasters or by media services providers in connection with its own programmes and ancillary products directly derived from those programmes

☐ **Module (iv)** – Software application for analysing and reporting the data obtained through the Service

II.B. Subcontractor

☐ **Subcontractor of the economic operator _____, which is submitting a tender for modules (i), (ii), (iii) and (iv).**

III. Declaration

The undersigned, acting in the name and on behalf of the above-mentioned economic operator, hereby declare that, **on the date of the letter of participation**, the economic operator fulfils the qualification criteria applicable to the module(s) indicated above.

*For each applicable item below, please mark **YES** or **NO**.*

*Where the answer is **NO**, full details and explanations shall be provided in the space indicated below the relevant item.*

A. For the economic operators that intend to submit a tender for the module (ii)

A1

Does the economic operator confirm the following statement: "The economic operator is a research company which has as an object of activity audience measurement of the audiovisual media services, through electronic means, methodology generically named 'peoplemeter measurement'"?

YES ☐ NO ☐

If **NO**, please provide details:

_____

_____

A2

Does the economic operator confirm the following statement: "Economic operator's experience in the above-mentioned field is of at least 10 years"?

YES ☐ NO ☐

If **NO**, please state the number of years of relevant experience and provide details:

_____

_____

A3

Does the economic operator confirm the following statement: "The economic operator is the owner of the tools used for providing the Service (data production software application, data analysis software application, software applications for programmes, audiovisual commercial communications and announcements made by the broadcasters or by audiovisual media services providers on their programmes and ancillary products derived directly from those programmes, peoplemeter devices which will be used)" ?

YES ☐ NO ☐

If **NO**, please specify which tools are not owned by the economic operator and provide details:

_____

_____

A4

Does the economic operator confirm the following statement: "The economic operator does not have Romanian and/or foreign audiovisual media services providers as direct/indirect shareholders/stockholders"?

YES ☐ NO ☐

If **NO**, please identify the relevant shareholders/stockholders and provide details:

_____

_____

A5

Does the economic operator confirm the following statement: "The economic operator does not have, starting from the date on which it expresses the intention to participate to the tender process, direct or indirect contracts for researching the audiovisual media services market concluded with the providers of the audiovisual media services which are or will be reported through the measurement service"?

YES ☐ NO ☐

If **NO**, please identify the relevant contract(s), counterparty(ies), and provide details:

_____

_____

A6

Does the economic operator confirm the following statement: "The economic operator will provide directly the service which is the subject-matter of the tender process. The only component which can be subcontracted is the establishment survey"?

YES ☐ NO ☐

If **NO**, please explain:

A7

Does the economic operator confirm the following statement: "The economic operator has to be registered according to the applicable legal provisions in order to conduct economic activities"?

YES ☐ NO ☐

If **NO**, please provide details:

A8

Does the economic operator confirm the following statement: "The economic operator confirms that, in the most recently completed financial year for which the annual financial statements have been approved by the deadline for submitting the letter of participation, it achieved a relevant annual turnover of at least EUR 2 million, exclusively from the provision of services for the electronic measurement of audiences of audiovisual media services"?

YES ☐ NO ☐

Reference financial year: _____

Economic operator's total turnover in the reference financial year: _____

Relevant annual turnover for module (ii): _____

Category/categories of services from which the relevant annual turnover was generated: _____

Currency in which the turnover is expressed: _____

Exchange rate used for conversion into euro, if applicable: _____

If **NO**, please state the relevant annual turnover and provide details:

A9

Does the economic operator confirm the following statement: "The economic operator must have a level of annual liquidity amounted to 5% calculated on the profit"?

YES ☐ NO ☐

If **NO**, please state the relevant level of annual liquidity and provide details:

Proposed subcontractors (where applicable)

Does the economic operator confirm the following statement: "Qualification criteria mentioned under items A2, A4, A5 and A7 from above and item B6 from belowwill be applied by the Commission also in respect of possible proposed subcontractors"?

YES ☐ NO ☐

If **NO**, or if any proposed subcontractor does not fulfil the relevant qualification criteria, please identify the proposed subcontractor and provide details:

B. For the economic operators that intend to submit a tender only for the module (i)

B1

Does the economic operator confirm the following statement: "The economic operator is a research company which has as an object of activity the conduct of establishment surveys, including the collection, processing, and analysis of data necessary to support audience measurement of audiovisual media services"?

YES ☐ NO ☐

If **NO**, please provide details:

B2

Does the economic operator confirm the following statement: "Economic operator's experience in the above-mentioned field is of at least 10 years"?

YES ☐ NO ☐

If **NO**, please state the number of years of relevant experience and provide details:

_____

_____

B3

Does the economic operator confirm the following statement: "The economic operator does not have Romanian and/or foreign audiovisual media services providers as direct/indirect shareholders/stockholders"?

YES ☐ NO ☐

If **NO**, please identify the relevant shareholders/stockholders and provide details:

_____

_____

B4

Does the economic operator confirm the following statement: "The economic operator does not have, starting from the date on which it expresses the intention to participate to the tender process, direct or indirect contracts for researching the audiovisual media services market concluded with the providers of the audiovisual media services which are or will be reported through the measurement service"?

YES ☐ NO ☐

If **NO**, please identify the relevant contract(s), counterparty(ies), and provide details:

_____

_____

B5

Does the economic operator confirm the following statement: "The economic operator has to be registered according to the applicable legal provisions in order to conduct economic activities"?

YES ☐ NO ☐

If **NO**, please provide details:

_____

_____

B6

Does the economic operator confirm the following statement: "The economic operator confirms that, in the most recently completed financial year for which the annual financial statements have been approved by the deadline for submitting the letter of participation, it achieved a relevant annual turnover of at least EUR 1 million, exclusively from the provision of market research services involving the collection, processing and analysis of data"?

YES ☐ NO ☐

Reference financial year: _____

Economic operator's total turnover in the reference financial year: _____

Relevant annual turnover for module (i): _____

Category/categories of services from which the relevant annual turnover was generated: _____

Currency in which the turnover is expressed: _____

Exchange rate used for conversion into euro, if applicable: _____

If **NO**, please state the relevant annual turnover and provide details:

_____

_____

B7

Does the economic operator confirm the following statement: "The economic operator must have a level of annual liquidity amounted to 5% calculated on the profit"?

YES ☐ NO ☐

If **NO**, please state the relevant level of annual liquidity and provide details:

_____

_____

B8

Does the economic operator confirm the following statement: "The economic operator will provide directly the module which is the subject-matter of the tender process"?

YES ☐ NO ☐

If **NO**, please explain:

C. For the economic operators that intend to submit a tender only for the module (iii)

C1

Does the economic operator confirm the following statement: "The economic operator is a company which has as an object of activity the monitoring of programmes, audiovisual commercial communications and announcements made by broadcasters or by media services providers in connection with their own programmes and ancillary products directly derived from those programmes"?

YES ☐ NO ☐

If **NO**, please provide details:

C2

Does the economic operator confirm the following statement: "Economic operator's experience in the above-mentioned field is of at least 10 years"?

YES ☐ NO ☐

If **NO**, please state the number of years of relevant experience and provide details:

C3

Does the economic operator confirm the following statement: "The economic operator does not have Romanian and/or foreign audiovisual media services providers as direct/indirect shareholders/stockholders"?

YES ☐ NO ☐

If **NO**, please identify the relevant shareholders/stockholders and provide details:

_____

_____

C4

Does the economic operator confirm the following statement: "The economic operator does not have, starting from the date on which it expresses the intention to participate to the tender process, direct or indirect contracts for researching the audiovisual media services market concluded with the providers of the audiovisual media services which are or will be reported through the measurement service"?

YES ☐ NO ☐

If **NO**, please identify the relevant contract(s), counterparty(ies), and provide details:

_____

_____

C5

Does the economic operator confirm the following statement: "The economic operator has to be registered according to the applicable legal provisions in order to conduct economic activities"?

YES ☐ NO ☐

If **NO**, please provide details:

_____

_____

C6

Does the economic operator confirm the following statement: "The economic operator confirms that, in the most recently completed financial year for which the annual financial statements have been approved by the deadline for submitting the letter of participation, it achieved a relevant annual turnover of at least EUR 1 million, exclusively from the provision of media monitoring services"?

YES ☐ NO ☐

Reference financial year: _____

Economic operator's total turnover in the reference financial year: _____

Relevant annual turnover for module (iii): _____

Category/categories of services from which the relevant annual turnover was generated: _____

Currency in which the turnover is expressed: _____

Exchange rate used for conversion into euro, if applicable: _____

If **NO**, please state the relevant annual turnover and provide details:

_____

_____

C7

Does the economic operator confirm the following statement: "The economic operator must have a level of annual liquidity amounted to 5% calculated on the profit"?

YES ☐ NO ☐

If **NO**, please state the relevant level of annual liquidity and provide details:

_____

_____

C8

Does the economic operator confirm the following statement: "The economic operator will provide directly the module which is the subject-matter of the tender process"?

YES ☐ NO ☐

If **NO**, please explain:

_____

_____

D. For the economic operators that intend to submit a tender only for the module (iv)

D1

Does the economic operator confirm the following statement: "The economic operator is a company which has as an object of activity the development, provision, and operation of software applications for the analysis and reporting of audience measurement data and media monitoring data"?

YES ☐ NO ☐

If **NO**, please provide details:

_____

_____

D2

Does the economic operator confirm the following statement: "Economic operator's experience in the above-mentioned field is of at least 10 years"?

YES ☐ NO ☐

If **NO**, please state the number of years of relevant experience and provide details:

_____

_____

D3

Does the economic operator confirm the following statement: "The economic operator does not have Romanian and/or foreign audiovisual media services providers as direct/indirect shareholders/stockholders"?

YES ☐ NO ☐

If **NO**, please identify the relevant shareholders/stockholders and provide details:

_____

_____

D4

Does the economic operator confirm the following statement: "The economic operator does not have, starting from the date on which it expresses the intention to participate to the tender process, direct or indirect contracts for researching the audiovisual media services market concluded with the providers of the audiovisual media services which are or will be reported through the measurement service"?

YES ☐ NO ☐

If **NO**, please identify the relevant contract(s), counterparty(ies), and provide details:

_____

_____

D5

Does the economic operator confirm the following statement: "The economic operator has to be registered according to the applicable legal provisions in order to conduct economic activities"?

YES ☐ NO ☐

If **NO**, please provide details:

_____

_____

D6

Does the economic operator confirm the following statement: "The economic operator confirms that, in the most recently completed financial year for which the annual financial statements have been approved by the deadline for submitting the letter of participation, it achieved a relevant annual turnover of at least EUR 1 million, exclusively from the development, provision, licensing, maintenance or operation of software applications for data analysis and reporting"?

YES ☐ NO ☐

Reference financial year: _____

Economic operator's total turnover in the reference financial year: _____

Relevant annual turnover for module (iv): _____

Category/categories of services from which the relevant annual turnover was generated: _____

Currency in which the turnover is expressed: _____

Exchange rate used for conversion into euro, if applicable: _____

If **NO**, please state the relevant annual turnover and provide details:

_____

_____

D7

Does the economic operator confirm the following statement: "The economic operator must have a level of annual liquidity amounted to 5% calculated on the profit"?

YES ☐ NO ☐

If **NO**, please state the relevant level of annual liquidity and provide details:

_____

_____

D8

Does the economic operator confirm the following statement: "The economic operator will provide directly the module which is the subject-matter of the tender process"?

YES ☐ NO ☐

If **NO**, please explain:

_____

_____

E. For all economic operators which participate to the tender process

E1

Does the economic operator confirm the following statement: "The economic operator has not been the subject of a conviction by final judgement issued by a judicial court for one of the following criminal offences"?

YES ☐ NO ☐

If **NO**, please identify the applicable offence(s), the person(s) concerned, the court/jurisdiction, the date of the final judgement, and provide full details:

_____

_____

_____

The criminal offences referred to above are the following:

- **Establishing an organized criminal group, mentioned under art. 367 of Law no. 286/2009 on Criminal Code, with all its modifications and completions or mentioned under applicable legal provisions of the criminal legislation of any other state;**
- **Corruption, mentioned under art. 289 – 294 of Law no. 286/2009, with all its modifications and completions and criminal offences assimilated to corruption criminal offences mentioned under art. 10 – 13 from Law no. 78/2000 for preventing, discovering and convicting corruption activities, with all its modifications and completions or mentioned under the applicable legal provisions of the criminal legislation of any other state;**
- **Criminal offences against European Unions' financial interests, mentioned under art. 18^1 – 18^5 of Law no. 78/2000, with all its modifications and completions, or mentioned under applicable legal provisions of the criminal legislation of any other state;**
- **Act of terrorism, mentioned under art. 32 – 35 and under art. 37^1 – 38 of Law no. 535/2004 for preventing and fighting against terrorism, with all its modifications and completions, or mentioned under applicable legal provisions of the criminal legislation of the state in which the said economic operator was convicted;**
- **Money laundering, mentioned under art. 49 of Law no. 129/2019 for preventing and fighting money laundering and terrorism financing and for changing and amending other legal provisions or terrorist financing mentioned under art. 36 of Law no. 535/2004, with all its modifications and completions, or mentioned under applicable legal provisions of the criminal legislation of any other state;**
- **Trafficking and exploiting vulnerable human beings, mentioned under art. 209 – 217 of Law no. 286/2009, with all its modifications and completions, or mentioned under applicable legal provisions of the criminal legislation of the state in which the said economic operator was convicted;**
- **Fraud, within the meaning of article 1 of the Convention on the protection of the European Communities' financial interests from 27 November 1995.**

E2. For all economic operators which participate to the tender process

a)

Does the economic operator confirm that the following situation does not apply to it: "Where the economic operator is subject of insolvency or winding-up proceedings, judicial surveillance or in termination of activity"?

YES ☐ NO ☐

If **NO**, please provide full details:

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b)

Does the economic operator confirm that the following situation does not apply to it: "Where the economic operator has committed a grave professional misconduct, which renders its integrity questionable"?

YES ☐ NO ☐

If **NO**, please provide full details:

"Grave professional misconduct" means any misconduct of the economic operator which affects its professional reputation such as breaching the competition rules by cartelization aiming at rigging the tender processes or breaching the intellectual property rights, committed with intention or grave guilt, including violation of the deontological norms applicable to the profession of the economic operator.

c)

Does the economic operator confirm that the following situation does not apply to it: "Where the Commission has reasonable indications/concrete information to conclude that the economic operator has entered into agreements with other economic operators aimed at distorting competition in the tender process or related to the tender process"?

YES ☐ NO ☐

If **NO**, please provide full details:

The following situations, mentioned here as examples, are considered by the Commission as serious indications that the economic operator has entered into agreements with other economic operators aiming at distorting competition in the tender process or related to the tender process:

- **The tenders or the letters of participation submitted by two or more economic operators participating to the tender process are significantly similar in respect of the content of the documents;**
- **In the management, administrative or supervisory body of two or more economic operators participating to the tender process are the same persons or persons which are spouses, relatives or in-laws up to second degree or persons having related interests of personal, financial, economic or any other nature;**
- **A tenderer/candidate has submitted two or more tenders/letters of participation, both individually and together with other economic operators or only together with other economic operators;**
- **A tenderer/candidate has submitted an individual offer/letter of participation or together with other economic operators and is nominated as a subcontractor in another tender/letter of participation.**

d)

Does the economic operator confirm that the following situation does not apply to it: "Where the economic operator is in a situation of conflict of interests in the tender process or related to the tender process and this situation cannot be effectively remedied by other less severe measures"?

YES ☐ NO ☐

If **NO**, please provide full details:

_____

_____

e)

Does the economic operator confirm that the following situation does not apply to it: "Where the economic operator is guilty of false declarations in supplying the information requested by the Commission for the verification of the absence of the exclusion grounds or for the fulfilment of the qualification criteria, has withheld such information or is not able to submit the supporting documents requested"?

YES ☐ NO ☐

If **NO**, please provide full details:

_____

_____

f)

Does the economic operator confirm that the following situation does not apply to it: "Where the economic operator has undertaken to unduly influence the decision – making process of the

Commission, to obtain confidential information that may confer upon it undue advantages in the tender process or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or awarding to the respective economic operator"?

YES ☐ NO ☐

If **NO**, please provide full details:

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g)

Does the economic operator confirm that the following situation does not apply to it: "Where the economic operator has breached repeatedly and gravely its main obligations undertaken according to a prior concluded agreement, having as object services similar to the services mentioned by the current tender process and these breaches caused a termination of the agreement before the contractual term, payment of damages or similar sanctions, irrespective of the state where the agreement was concluded and/or executed"?

YES ☐ NO ☐

If **NO**, please provide full details:

Additional declarations applicable within Section E

Does the economic operator confirm the following statement: "Qualification criteria mentioned under item E1 from above will be applied by the Commission also for the situation when the person subject of a conviction by final judgement issued by a judicial court is a member of an administrative, management or supervisory body of an economic operator or has representation, decision or control power within the said economic operator"?

YES ☐ NO ☐

If **NO**, please identify the relevant person(s) and provide full details:

Does the economic operator confirm the following statement: "Qualification criteria mentioned under items E1, E2 from above will be applied by the Commission also in respect of possible proposed subcontractors"?

YES ☐ NO ☐

If **NO**, or if any proposed subcontractor does not fulfil the relevant qualification criteria, please identify the proposed subcontractor and provide details:

Does the economic operator confirm that it is not in the situation described in the following statement: "The Commission will exclude from the tender process any economic operator incorporated as a stock company, having its registered capital represented by bearer shares that does not provide a proof of the identity of the holders of the bearer shares or of the ultimate beneficiary owners of the bearer shares"?

YES ☐ NO ☐

If **NO**, please provide full details:

V. Final Declaration

The undersigned declare that the present Declaration is submitted for the purpose of participating in the above-mentioned **tender process**.

The undersigned further acknowledge the following statement: **"The Commission will consider the above-mentioned criteria and will apply them for the entire duration of the tender process."**

YES ☐ NO ☐

If **NO**, please provide details:

Mandatory acknowledgement

The economic operator shall mandatorily tick the box below. Failure to tick this box shall mean that the present Declaration has not been duly completed.

☐ **The undersigned expressly acknowledge and accept that any false statement made in this Declaration shall result in the disqualification of the tender from the tender process. The undersigned further acknowledge and accept that, if the economic operator is declared**

successful in the tender process and it is subsequently established that a false declaration was made, such circumstance shall constitute a serious breach of the tender process rules and of the contract awarded and shall result in the termination of the contract awarded and the payment of penalties by the economic operator concerned.

VI. Signature

Name of the legal representative: _____

Position: _____

Signature: _____

Date: _____

Place: _____