



EUROPEAN COMMISSION

Directorate-General for Education and Culture

Directorate for Culture, Audiovisual policy and Sport

**Director**

## SERVICE CONTRACT

CONTRACT NUMBER – [complete]

The European Community (hereinafter referred to as "the Community"), represented by the Commission of the European Communities (hereinafter referred to as "the Commission"), which is represented for the purposes of the signature of this contract by ....., Director, General Directorate Education and Culture,

of the one part,

and

[official name in full]

[official legal form]<sup>1</sup>

[statutory registration number]<sup>2</sup>

[official address in full]

[VAT registration number]

(hereinafter referred to as "the Contractor"),

represented for the purposes of the signature of this contract by [name in full and function],

of the other part,

HAVE AGREED

the Special Conditions and the General Conditions below and the following Annexes :

**Annex I - Technical Specifications, Reporting and Monitoring**

which form an integral part of this contract (hereinafter referred to as "the Contract").

The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract. The terms set out in the General Conditions shall take precedence over those in the Annex.

---

<sup>1</sup> Delete if contractor is a natural person or a body governed by public law.

<sup>2</sup> Delete if contractor is a body governed by public law. For natural persons, indicate the number of their identity card or, failing that, of their passport or equivalent.

European Commission, B-1049 Brussels - Belgium. Telephone: (32-2) 299 11 11.

Office: B100 8/13. Telephone: direct line (32-2) 2990677. Fax: (32-2) 2965298.

## **I – SPECIAL CONDITIONS**

### **ARTICLE I.1 - SUBJECT**

**I.1.1.** The Contract is “**Comparative study concerning the impact of regulation on TV advertising markets in the EU Member States and EEA States, applicant countries and certain other countries**”.

**I.1.2.** The Contractor shall execute the tasks assigned to him in accordance with the Technical Specifications annexed to the Contract (Annex I).

### **ARTICLE I.2 - DURATION**

**I.2.1.** The Contract shall enter into force on the date on which it is signed by the last contracting party.

**I.2.2.** Execution of the tasks may under no circumstances begin before the date on which the Contract enters into force.

**I.2.3.** The duration of the contract shall be eighteen months. Execution of the tasks (interim and final reports) shall start from date of entry into force of the Contract. The period of execution of the tasks may be extended only with the express written agreement of the parties before the tasks have been completed.

### **ARTICLE I.3 – AMOUNT**

**I.3.1.** The maximum total amount to be paid by the Commission for all tasks executed under the Contract shall be EUR [amount in figures and in words].

**I.3.2** The total amount referred to in the above paragraph shall be fixed and not subject to revision.

**I.3.3** The amount to be paid by the Commission shall include all travel, subsistence and any other cost incurred by the Contractor in executing the tasks under the Contract

### **ARTICLE I.4 – PAYMENTS**

Payments under the Contract shall be made in accordance with Article II.4.

#### ***I.4.1. Pre-financing:***

Within 30 days after the receipt of a request for pre-financing and the receipt of a duly constituted financial guarantee equal to such pre-financing, a pre-financing

payment of EUR [amount in figures and in words] equal to 30 % of the total amount referred to in Article I.3.1 shall be made.

The guarantee will expire upon the first interim payment by the Commission.

**I.4.2. First interim payment:**

A request for interim payment of EUR [amount in figures and in words] equal to 10 % of the total amount referred to in Article I.3.1 shall be valid if accompanied by an interim report in accordance with the instructions laid down in Annex I and the relevant invoices provided the above documents have been approved by the Commission.

The Commission shall have sixty days to approve or reject the report, and the Contractor shall have 20 days in which to submit a new report.

Within 30 days of the date on which the report accompanying a request for payment are approved by the Commission, an interim payment corresponding to the relevant invoices shall be made.

**I.4.3. Second interim payment:**

A request for interim payment of EUR [amount in figures and in words] equal to 30 % of the total amount referred to in Article I.3.1 shall be valid if accompanied by an interim report in accordance with the instructions laid down in Annex I and the relevant invoices provided the above documents have been approved by the Commission.

The Commission shall have sixty days to approve or reject the report, and the Contractor shall have 20 days in which to submit a new report.

Within 30 days of the date on which the report accompanying a request for payment are approved by the Commission, an interim payment corresponding to the relevant invoices shall be made

**I.4.4. Payment of the balance:**

The request for payment of the balance shall be valid if accompanied by the final technical report in accordance with the instructions laid down in Annex I and the relevant invoices provided the above documents have been approved by the Commission.

The Commission shall have sixty days to approve or reject the report, and the Contractor shall have 20 days in which to submit new report.

Within 30 days of the date on which the report accompanying a request for payment are approved by the Commission, payment of the balance corresponding to the relevant invoices shall be made.

#### **I.4.4. Performance guarantee:**

A performance guarantee corresponding to 4% of the total value of the Contract shall be constituted by deduction from the first interim payment. A further guarantee corresponding to 3% of the total value of the Contract shall be constituted by deduction from the second interim payment. Release of the guarantees implies final acceptance of the services.

#### **ARTICLE I.5 – BANK ACCOUNT**

Payments shall be made to the Contractor's bank account denominated in euro, identified as follows:

Name of bank: [complete]  
Address of branch: [complete]  
Exact designation of account holder: [complete]  
Full account number including codes: [complete]  
IBAN code: [complete]

#### **ARTICLE I.6 – GENERAL ADMINISTRATIVE PROVISIONS**

Any communication relating to the Contract shall be made in writing and shall bear the Contract number. It shall be sent to the following addresses:

##### Commission:

European Commission  
Directorate-General Education and Culture  
Directorate C – Culture, Audiovisual policy and Sport  
Unit C1 – Audiovisual policy  
B-1049 Brussels

##### Contractor:

Mr/Mrs/Ms [complete]  
[Function]  
[Company name]  
[Official address in full]

#### **ARTICLE I.7– APPLICABLE LAW AND SETTLEMENT OF DISPUTES**

**I.7.1.** The Contract shall be governed by the national substantive law of Belgium.

**I.7.2.** Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the courts of Brussels.

## **II – GENERAL CONDITIONS**

### **ARTICLE II.1 – PERFORMANCE OF THE CONTRACT**

**II.1.1.** The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.

**II.1.2.** The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.

**II.1.3.** Without prejudice to Article II.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.

**II.1.4.** The Contractor must ensure that any staff performing the Contract have the professional qualifications and experience required for the execution of the tasks assigned to him.

**II.1.5.** The Contractor may neither represent the Commission nor behave in any way that would give such an impression. The Contractor shall inform third parties that he does not belong to the European public service.

**II.1.6.** The Contractor shall have sole responsibility for the staff who execute the tasks assigned to him. They may not be given orders direct by the Commission.

The Contractor shall make provision for the following employment or service relationships with his staff:

- staff executing the tasks assigned to the Contractor may not be given orders direct by the Commission;
- the Commission may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Commission any right arising from the working relationship between the Commission and the Contractor.

**II.1.7.** In the event of malfunction, either involving the action of one or more members of his staff, or due to the fact that his/their expertise does not correspond to the profile required by the Contract, the Contractor shall replace him/them without delay. The Commission shall have the right to request the replacement of any member of staff, stating its reasons for so doing, if the member of staff is working on Commission premises. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for

any delay in the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.

**II.1.8.** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the Commission. The report shall include a description of the problem and an indication of the date on which it started. In such event the Contractor shall give priority to solving the problem rather than determining liability.

**II.1.9.** Should the Contractor fail to perform his obligations under the Contract in accordance with the provisions laid down therein, the Commission may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, the Commission may impose sanctions, as provided for in Article II.16.

## **ARTICLE II.2 – LIABILITY**

**II.2.1.** The Commission shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of misconduct or negligence on the part of the Commission.

**II.2.2.** The Contractor shall be liable for any loss or damage caused by himself in performance of the Contract, including in the event of subcontracting under Article II.13. The Commission shall not be liable for any act or default on the part of the Contractor in performance of the Contract.

**II.2.3.** The Contractor shall indemnify the Commission in full and undertakes to provide compensation in the event of any action, claim or proceeding brought against it by a third party as a result of damage caused by the Contractor in performance of the Contract.

**II.2.4.** In the event of any action brought by a third party against the Commission in connection with performance of the Contract, the Contractor shall assist the Commission. Expenditure incurred by the Contractor to this end may be borne by the Commission.

**II.2.5.** In the event of any action brought by a third party against the Contractor in connection with performance of the Contract, the Commission may assist the Contractor if a written request is made by the Contractor to this effect. Expenditure incurred by the Commission to this end shall be borne by the Contractor.

**II.2.6.** The Contractor shall take out the insurance required by the relevant legislation against risks and damage relating to performance of the Contract. He shall take out supplementary insurance if he deems it necessary and appropriate in order to perform the Contract. A copy of all insurance contracts shall be sent to the Commission should it so request.

## **ARTICLE II.3 - CONFLICT OF INTERESTS**

**II.3.1.** The Contractor shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the Contract. 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 performance of the Contract must be notified to the Commission in writing without delay.

The Commission reserves the right to verify that such measures are adequate and may require additional measures to be taken if necessary. The Contractor shall ensure that his staff, board and directors are not placed in a situation which could give rise to conflict of interests. Without prejudice to Article II.1 the Contractor shall replace, immediately and without compensation from the Commission, any member of his staff exposed to such a situation.

**II.3.2.** The Contractor shall abstain from any contact likely to compromise his independence.

**II.3.3.** The Contractor declares:

- that he has not made and will not make any offer of any type whatsoever from which an advantage can be derived under the Contract,
- that he has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to performance of the Contract.

**II.3.4.** The Contractor shall pass on all the relevant obligations in writing to his staff, board, and directors as well as to third parties involved in performance of the Contract. A copy of the instructions given and the undertakings made in this respect shall be sent to the Commission should it so request.

## **ARTICLE II.4 – PAYMENTS**

**II.4.1.** Pre-financing :

Where required by Article I.4.1, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by an authorised bank or financial institution (guarantor) equal to the amount indicated in the same Article to cover pre-financing under the Contract.

The guarantor shall pay to the Commission at its request an amount corresponding to payments made by it to the Contractor which have not yet been covered by equivalent work on his part.

The guarantor shall stand as first call guarantor and shall not require the Commission to have recourse against the principal debtor (the Contractor).

The guarantee shall specify that it enters into force on the date on which the Contractor receives the pre-financing. The Commission shall release the guarantor from its obligations as soon as the Contractor has demonstrated that any pre-financing has been covered by equivalent work evidenced by acceptance of the services or approval of the interim report(s). The guarantee shall be retained until the pre-financing has been deducted from interim payments or payment of the balance to the Contractor. It shall be discharged the following month. The cost of providing such guarantee shall be borne by the Contractor.

#### **II.4.2. Interim payment :**

At the end of each of the periods indicated in Annex I the Contractor shall submit to the Commission for approval a formal request for payment accompanied by those of the following documents which are provided for in the Special Conditions:

- an interim technical report in accordance with the instructions laid down in Annex I or Annex II (where applicable);
- the relevant invoices indicating the reference number of the Contract to which they refer;
- statements of reimbursable expenses in accordance with Article II.7.

On receipt of the documents the Commission shall have the period of time indicated in the Special Conditions in which:

- to approve them, with or without comments, reservations or requests for additional information; or
- to request new documents.

If the Commission does not react within this period, the documents shall be deemed to have been approved. Approval of the documents accompanying the request for payment does not imply recognition either of the regularity or of the authenticity, completeness or correctness of the declarations or information enclosed.

Where the Commission requests new documents, these shall be submitted within the period of time indicated in the Special Conditions. The new documents shall likewise be subject to the above provisions.

#### **II.4.3. Payment of the balance:**

Within sixty days of completion of the tasks referred to in Annex I the Contractor shall submit to the Commission for approval a formal request for payment accompanied by those of the following documents which are provided for in the Special Conditions:



- a final technical report in accordance with the instructions laid down in Annex I or Annex II (where applicable);
- the relevant invoices indicating the reference number of the Contract to which they refer;
- statements of reimbursable expenses in accordance with Article II.7.

On receipt of the documents the Commission shall have the period of time indicated in the Special Conditions in which :

- to approve them, with or without comments, reservations or requests for additional information; or
- to request new documents.

If the Commission does not react within this period, the documents shall be deemed to have been approved. Approval of the documents accompanying the request for payment does not imply recognition either of the regularity or of the authenticity, completeness or correctness of the declarations and information enclosed.

Where the Commission requests new documents, these shall be submitted within the period of time indicated in the Special Conditions. The new documents shall likewise be subject to the above provisions.

## **ARTICLE II.5 – GENERAL PROVISIONS CONCERNING PAYMENTS**

**II.5.1.** Payments shall be deemed to have been made on the date on which the Commission's account is debited.

**II.5.2.** The periods referred to in Article I.4 may be suspended by the Commission at any time if it informs the Contractor that his payment request is not admissible, either because the amount is not due or because the necessary supporting documents have not been produced.

The Commission shall notify the Contractor accordingly by registered letter with acknowledgement of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter.

**II.5.3.** In the event of late payment the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations (“*the reference rate*”) plus seven percentage points (“*the margin*”). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Communities. Interest shall be payable for the time elapsed between expiry of the payment deadline and the date of payment. Suspension of payment by the Commission may not be deemed to constitute late payment.

**II.5.4.** The Financial Regulation applicable to the general budget of the European Communities imposes a limitation in the form of a final date for implementation on legal commitments towards third parties extending over

more than one financial year by which all the phases of execution have to be completed and the payments made.

This final date shall be determined by adding to the date on which the tasks have to be completed :

- the maximum periods laid down for the submission of reports and other documents required from the Contractor,
- the maximum periods laid down for their approval,
- the maximum payment period,
- where applicable, the maximum period laid down for acceptance of the services and release of the performance guarantee.

In the event of amendment of the date on which the tasks have to be completed or of the periods indicated above, the final date for implementation shall automatically be modified accordingly.

## **ARTICLE II.6 – RECOVERY**

**II.6.1.** If total payments made exceed the amount actually due under the Contract or if recovery is justified in accordance with the terms of the Contract, the Contractor shall reimburse the appropriate amount in euro on receipt of the debit note, in the manner and within the time limits set by the Commission.

**II.6.2.** In the event of failure to pay by the deadline specified in the request for reimbursement, the sum due shall bear interest at the rate indicated in Article II.5.3. Such interest rate is published in the C series of the Official Journal of the European Communities. Interest shall be payable for the time elapsed between expiry of the payment deadline and the date of payment.

**II.6.3.** The Commission may, after informing the Contractor, recover amounts established as receivable by offsetting, in cases where the Contractor also has a claim on the Communities that is certain, of a fixed amount and due. The Commission may also claim against the guarantee, where provided for. The agreement of the Contractor is not required.

**II.6.4.** The Contractor is aware that the Commission may formally establish an amount as being receivable from persons other than States by means of a decision which shall be enforceable within the meaning of Article 256 of the EC Treaty.

## **ARTICLE II.7 - REIMBURSEMENTS**

**II.7.1.** The Commission shall reimburse the expenses provided for in the Special Conditions which are directly connected with execution of the tasks specified in Article I.1.

**II.7.2.** Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary on production of original supporting documents, including receipts and used tickets.

**II.7.3.** Travel expenses shall be reimbursed as follows:

- a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
- b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
- c) travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;
- d) travel outside Community territory shall be reimbursed under the general conditions stated above provided the Commission has given its prior written agreement.

**II.7.4.** Subsistence expenses shall be reimbursed on the basis of a daily allowance as follows:

- a) for journeys of less than 200 km (return trip) no subsistence allowance is payable;
- b) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;
- c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including accommodation, meals, local transport, insurance and sundries;
- d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article I.3.3.

**II.7.5.** The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the Commission has given prior written authorisation.

## **ARTICLE II.8 – OWNERSHIP OF THE RESULTS- INTELLECTUAL AND INDUSTRIAL PROPERTY**

Any results or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the Contract, shall be owned solely by the Community, which may use, publish, assign or transfer them as it sees fit, without geographical or other limitation, except where industrial or intellectual property rights already exist.

## **ARTICLE II.9 – CONFIDENTIALITY**

- II.9.1.** The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to the performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.
- II.9.2.** The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they 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 tasks.

## **ARTICLE II.10 - USE, DISTRIBUTION AND PUBLICATION OF INFORMATION**

- II.10.1.** The Commission shall be entitled to use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, information relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports.
- II.10.2.** The Commission shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the Commission.
- II.10.3.** Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from the Commission and shall mention the amount paid by the Community. It shall state that the opinions expressed are those of the Contractor only and do not represent the Commission's official position.
- II.10.4.** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the Commission has specifically given prior written authorisation to the contrary.

## **ARTICLE II.11 - TAXATION**

- II.11.1.** The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.
- II.11.2.** The Contractor recognises that the Commission is, as a rule, exempt from all taxes and dues, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities.

**II.11.3.** The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and dues, including VAT.

**II.11.4.** Invoices presented by the Contractor shall specify separately the amounts not including VAT and the amounts including VAT.

## **ARTICLE II.12 – FORCE MAJEURE**

**II.12.1.** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.

**II.12.2.** If either of the contracting parties is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgement of receipt or equivalent, stating the nature, likely duration and foreseeable effects.

**II.12.3.** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.

**II.12.4.** The contracting parties shall take the necessary measures to reduce damage to a minimum.

## **ARTICLE II.13 – SUBCONTRACTING**

**II.13.1.** The Contractor shall not subcontract without prior written authorisation from the Commission nor cause the Contract to be performed in fact by third parties.

**II.13.2.** Even where the Commission authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Commission under the Contract.

**II.13.3.** The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the Commission is entitled by virtue of the Contract, notably Article II.17.

## **ARTICLE II.14 – ASSIGNMENT**

**II.14.1.** The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Commission.

**II.14.2.** In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the Commission.

## **ARTICLE II.15 – TERMINATION**

**II.15.1.** The Commission may terminate the contract in the following circumstances:

- a) where a change in the Contractor's legal, financial, technical or organisational situation could have a significant effect on the Contract;
- b) where performance of the Contract has not actually commenced within three months of the date foreseen for the commencement of execution of the tasks, and the new date proposed, if any, is considered unacceptable by the Commission;
- c) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- d) where the Contractor has failed to perform the Contract;
- e) where the Contractor has been found guilty by the competent bodies of serious professional misconduct;
- f) where the Contractor is declared bankrupt, is wound up, has ceased trading, has been wound up by court order or is in composition with his creditors entailing suspension of business, is in receivership or is in any other comparable situation provided for by the laws or regulations of his country;
- g) where the Contractor has made false, incomplete or incorrect statements or has failed to provide information in an attempt to obtain the Contract or any benefit resulting therefrom, or where this was the effect of his action;
- h) **h) where the Contractor has, intentionally or by negligence, committed an irregularity in performance of the Contract or in relation to other contracts concluded with an institution, organ or agency of the European Communities and, more generally, in the event of fraud, corruption or any other illegal activity detrimental to the Communities' financial interests on the part of the Contractor.**

**II.15.2.** In case of force majeure, notified in accordance with Article II.12, either contracting party may terminate the Contract.

**II.15.3.** Registered letter with acknowledgement of receipt or equivalent shall initiate the termination procedure. Where prior notice is not required (points

c), e), f) g) and h)), termination shall take effect from the day after the day on which the letter terminating the Contract is received.

Where prior notice is required (points a), b) and d)), termination shall take effect after a period of three months, which shall start to run on the date on which the letter terminating the Contract is received. The Contractor may submit arguments against termination within thirty days. In the absence of reaction on his part or of written withdrawal of the termination notice by the Commission within thirty days of the receipt of such arguments, the termination procedure shall be maintained.

#### **II.15.4. Consequences of termination:**

In the event of the Commission terminating the Contract in accordance with this Article, the Contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

The Contractor shall be entitled to remuneration for the tasks carried out in accordance with Annex I and accepted by the Commission. The Contractor shall accept as the aggregate liability of the Commission payment of the contract price corresponding to the tasks executed by him in accordance with the Contract as at the effective date of termination. However, in the event of termination on the grounds set out in points (b), (c), (d), (e), (g) or (h) of Article II.15.1, the Commission may recover any sums paid to the Contractor under the Contract.

### **ARTICLE II.16 – PENALTIES AND SANCTIONS**

**II.16.1.** Under the Financial Regulation applicable to the general budget of the European Communities, all contractors who have been found to have seriously failed to meet their contractual obligations are subject to financial penalties representing 2% to 10% of the total value of the contract in question. This rate may be increased to 4% to 20% in the event of a repeat offence within five years of the first infringement.

**II.16.2.** Should the Contractor fail to perform his obligations under the Contract within the time specified in Article I.2, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the Commission's right to terminate the Contract, the Commission may impose a sanction of 0.2% of the amount specified in Article I.3.1 per calendar day of delay. The Contractor may submit arguments against this sanction within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal of the

sanction by the Commission within thirty days of the receipt of such arguments, the decision imposing sanctions shall become enforceable.

## **ARTICLE II.17 – CHECKS AND AUDITS**

**II.17.1.** The Contractor shall provide free of charge all the detailed information requested by the Commission or by an outside body of the Commission's choice with a view to checking that the Contract is being properly performed.

**II.17.2.** The Contractor shall keep at the Commission's disposal the original or, in exceptional cases, duly authenticated copies of all documents relating to the Contract for a period of five years from payment of the balance.

**II.17.3.** The Commission may, at any time within the period specified in the paragraph above, arrange for an audit to be carried out either by an outside body of its choice or by the Commission departments themselves. The object of such an audit shall be limited to checking that the Contractor has complied with the Contract. The cost shall be borne by the Commission.

**II.17.4.** In order to carry out these audits, the Commission departments and the outside bodies concerned shall have total on-the-spot access, notably to the Contractor's offices, at all times and to all the information needed to check that the Contractor has complied with the Contract, including information in electronic format.

**II.17.5.** The European Court of Auditors and the European Anti-Fraud Office shall have the same rights as the Commission, notably right of access, for the purpose of checks and audits.

## **ARTICLE II.18 – AMENDMENTS**

Any amendment to the Contract shall be the subject of a written agreement concluded by the contracting parties. An oral agreement shall not be binding on the contracting parties.

### **SIGNATURES**

For the Contractor,  
[*Company name/forename/surname/function*]

For the Commission,  
Gregory PAULGER, Director

signature[s]: \_\_\_\_\_

signature[s]: \_\_\_\_\_

Done at [Brussels], [date]

Done at [Brussels], [date]

In duplicate in [language].



## **ANNEX I**

### **Technical Specifications**

The Technical Specifications comprise the tender submitted by the Contractor and accepted by the Commission on the basis of invitation to tender No DG EAC 44/03.