



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR ENERGY  
DIRECTORATE E- Nuclear Safeguards  
**The Director**

Luxembourg, le  
DG ENER E.1/59006

**INVITATION TO TENDER N°. ENER/E1/112-3/2010**  
**(open procedure)**

Dear Sir/Madam,

The European Commission invites tenders for a supply contract regarding the following goods:

Framework contract to implement improved metrology for portable UF<sub>6</sub> cylinder verification systems (Lot 1) and portable High-Purity Germanium (HPGe) gamma detectors (Lot 2)

The invitation to tender follows the publication of:  
- the contract notice in OJEU 2010/S 113-170894 OF 12/06/10

1. If you are interested in this contract, you must submit a tender in **triplicate**, in one of the official languages of the European Union.

Tenders must be:

**(a) either sent by registered mail or by private courier**

The tender must be sent by registered mail or by private courier, dispatched not later than **06/08/2010** (the postmark or the receipt issued by the courier service serving as proof of the dispatch) to the following address:

European Commission  
Directorate-General for Energy  
Directorate E – Nuclear Safeguards  
Complexe Euroforum  
For the attention of Ms. A. Bouzergan/Mr. Boella EUFO 3484  
1, rue Henry M. Schnadt  
Zone d'activités Cloche d'Or

L-2530 Luxembourg

**(b) or delivered by hand**

Tenders must be delivered by hand at the **Central Mail of the European Commission by 06/08/2010 not later than 4 p.m.** (Brussels time), at the following address:

European Commission  
Directorate-General for Energy  
Directorate E – Nuclear Safeguards  
Complexe Euroforum II- main entrance  
For the attention of Ms. A. Bouzergan/Mr. Boella EUFO 3484  
1, rue Henry M. Schnadt  
Zone d'activités Cloche d'Or  
L-2530 Luxembourg

In this case, a receipt must be obtained as proof of submission, signed and dated by the official in the Commission's central mail department who took delivery. The department is open from 08.00 to 16.00 Monday to Friday. It is closed on Saturdays, Sundays and Commission holidays.

3. Tenders must be placed inside two sealed envelopes, one inside the other. **The inner envelope should be marked:**

<p style="text-align: center;"><b>Call for tenders No. ENER/E1/112-3/2010</b> <b><u>not to be opened by the internal mail department</u></b> <b>EUFO – Archives</b></p>
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If self-adhesive envelopes are used, they must be sealed with adhesive tape and the sender must sign across this tape.

**The non-compliance with these formal conditions will entail the rejection of the bids at the opening session.**

4. Tenders will be opened on **13/08/2010** at 11:00 EUFO II **2392**  
1, rue Henry M. Schnadt,  
Zone d'activités Cloche d'Or  
L-2530 Luxembourg

This opening session will be public. Each tenderer may be represented by not more than one person. At the end of the opening session, the Chairman of the opening committee will

indicate the name of the tenderers and the decision concerning the admissibility of each offer received. The prices mentioned in the bids will not be communicated.

5. The specification, listing all the documents that must be produced in order to tender, including supporting evidence of economic, financial, technical and professional capacity and the draft contract are attached.

6. Tenders must be signed by the tenderer or his duly authorised representative and perfectly legible so that there can be no doubt as to words and figures.

**You may submit an offer for one or both lots but your offer should indicate clearly for which lot(s) you are applying. In the case you decide to apply for both lots, a technical and financial offer per lot must be provided.**

7. The validity period of the tender shall be at least six months as from the final date for submission of tenders mentioned under point 2 above.

8. Submission of a tender implies acceptance of all the terms and conditions set out in this invitation to tender, in the specification, in the draft contract and, where applicable, waiver of the tenderer's own general or specific terms and conditions. The terms and conditions are binding on the tenderer to whom the contract is awarded during the performance of the contract.

9. Contacts between the awarding authority and tenderers are prohibited throughout the procedure except in exceptional circumstances and under the following conditions only:

Before the closing date for submission of tenders

- At the request of the tenderer, the awarding authority may provide additional information solely for the purpose of clarifying the nature of the contract.

Any requests for additional information must be sent in writing to the following address:

[ENER-E1-CFT@ec.europa.eu](mailto:ENER-E1-CFT@ec.europa.eu)

Request for additional information received less than five working days before the closing date for submission of tenders will not be processed.

- The Commission may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other material shortcoming in the text of the tender documents.

Further information will be sent simultaneously to all tenderers who have requested the specification in writing, where this is appropriate. Tenderers who have downloaded the documents from the Directorate-General for Energy website (DG ENER) are invited to consult this site regularly until the deadline for submission.

After the opening of tenders:

If a tender requires clarification, or if there is a need to correct material errors which have occurred in the drafting of the tender, the Commission may take the initiative and contact the tenderer(s). Such contact shall not lead to the conditions of the tender being altered in any way.

10. This invitation to tender is in no way binding on the Commission. A commitment will come about only when a contract with the successful tenderer has been signed. Until a contract is signed, the awarding authority may decide not to award a contract or to cancel the tendering procedure, without the candidates or tenderers being entitled to claim any compensation. Where appropriate, the decision will be substantiated and brought to the attention of the tenderers.

11. Tenderers will be informed of whether their tenders have been accepted or rejected.

12. The follow-up of your response to the invitation to tender will require the recording and further processing of personal data (i.e. name, address, CV, etc.). This data will be processed in accordance with the requirements of Regulation (CE) 45/2001 on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data. Unless if otherwise stated, replies to questions and personal data requested are necessary for the purpose of assessing your tender (according to the specifications of the invitation to tender) and will only be processed within DG ENER as data controller, for this purpose. You may, upon request, have your personal data sent to you and rectify any inaccurate or incomplete particulars. Should you have any queries concerning the processing of your personal data, please address them to the entity acting as data controller within DG ENER. As regards the processing of your personal data, you have the right to bring the matter before the European Data Protection Supervisor at any time.

13. You are informed that for the purposes of safeguarding the Community's or European Union's financial interest, your personal data may be transferred to internal audit services, to the Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF).

Data of economic operators which are in one of the situations referred to in Articles 93, 94, 96(1)(b) and 96(2)(a) of the Financial Regulation may be included in a central database and communicated to the designated persons of the Commission, other institutions, agencies, authorities and bodies mentioned in Article 95(1) and (2) of the Financial Regulation. This refers as well to the persons with powers of representation, decision making or control over the said economic operators. Any party entered into the database has the right to be informed of the data concerning it, up on request to the accounting officer of the Commission.

Candidates or tenderers and, if they are legal entities, persons who have powers of representation, decision-making or control over them, are informed that, should they be in one of the situations mentioned in:

- the Commission Decision of 16.12.2008 on the Early Warning System (EWS) for the use of authorising officers of the Commission and the executive agencies (OJ, L 344, 20.12.2008, p. 125), or

- the Commission Regulation of 17.12.2008 on the Central Exclusion Database – CED (OJ L 344, 20.12.2008, p. 12),

their personal details (name, given name if natural person, address, legal form and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the EWS only or both in the EWS and CED, and communicated to the persons and entities listed in the above-mentioned Decision and Regulation, in relation to the award or the execution of a procurement contract or a grant agreement or decision.

Yours faithfully,

P. Szymanski  
Director

**TENDER SPECIFICATIONS**  
**ATTACHED TO THE INVITATION TO TENDER**

**Invitation to tender N° ENER/E1/112-3/2010**  
**concerning the framework contract to implement improved metrology for**  
**portable High-Purity Germanium gamma detectors (Lot 1) and**  
**portable UF<sub>6</sub> cylinder verification systems (Lot 2)**

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# I. SPECIFICATIONS

## I.1. Introduction

The Nuclear Safeguards Directorate of the European Commission, acting on the basis of article 77 of the Treaty Establishing the European Atomic Energy Community (EURATOM Treaty), implements Nuclear Safeguards in the Member States of the European Union. This includes the physical verification of the material from its production to the end of its life cycle.

Implementing inspections of nuclear facilities requires that an inspector has the capability to verify the content of a declared container and to analyze the amount of nuclear material therein as well as to calculate the enrichment of the latter. For this purpose, non-destructive measurement techniques using portable HPGe-detectors, cooled with small cryostats filled with liquid nitrogen, have been developed and their application has been transformed into routine operations during inspections to carry out high-precision measurements in the field. Lot 1 of the framework contract aims at the purchase of portable HPGe detectors (see details below).

Uranium, after mining and ore processing, undergoes enrichment in the chemical form of its hexafluoride; a chemically highly reactive substance which is stored in closed cylinders for transport purposes and interim storage. In order to be able to verify the content of a cylinder filled with uranium hexafluoride (UF<sub>6</sub> cylinder) and to determine the enrichment of nuclear material inside without opening the cylinder, non-destructive measurement techniques have to be applied. For this purpose, inspectors of the European Commission require portable spectrometers capable of high-precision measurements. Lot 2 of the framework contract aims on the acquisition of modern UF<sub>6</sub> cylinder verification systems as a pilot project to assess their applicability during routine inspection operations (see below).

**Respondents may tender for one or both lots. However, a tender made for any specific Lot of this Call must cover the entirety of the parts specified within that Lot and will be evaluated as such. In addition, respondents are requested to submit their detailed financial offer for each lot separately. Each lot may constitute a separate supply contract that will be awarded separately.**

## **I.2. Lot 1: Portable HPGe-detectors with cryostats using liquid nitrogen**

### ***I.2.1. Purpose of the contract***

In order to be able to cover the metrological needs arising from the inspection activities mentioned above, up to 30 portable HPGe-detectors will be purchased in the framework of this lot within the next four years. Due to the fact, that the introduction of new equipment has to be harmonized with the inspection schedules as well as with the replacement of existing devices, the successful tenderer needs to take into account, that the delivery of equipment may not be uniform during the contract duration. The portable HPGe-detectors will be used to acquire gamma spectra at nuclear installations and at places which are difficult to access. For this purpose it is essential, that the device can be easily carried (having a limited weight) and remains operational for the whole period of the inspection (operating autonomous for several hours, see below). The equipment must be compatible with already existing equipment and thus needs to be able to be adapted onto the Multi Channel Analyzer MCA-166 (see Annex 1).

Finally, reliability of the equipment is one of the most important factors to be taken into consideration. The successful tenderer needs to provide proof about the participation in a radiation detection technology assessment programme under the auspices of an international organisation (e.g. the ITRAP programme under the auspices of the IAEA, or equivalent). This will assure that equipment of the tenderer i) has undergone comprehensive testing by independent experts and ii) that the tenderer, after receiving feedback from the assessors, has fixed detected deficiencies. Under extraordinary circumstances it will be taken into consideration if the tenderer i) is currently participating in an ongoing radiation detection technology assessment programme, ii) agrees to provide evidence of being registered at the date of publication of this tender iii) obliges itself to provide proof of the fact that its equipment has been assessed and detected deficiencies have been or will have been fixed. It is recommended that the equipment foreseen in the framework of this contract has passed the assessment programme described above; however, due to the fact that the tenderer has limited influence on the selection of equipment by the programme organiser, it will be sufficient if any equipment of the manufacturer used to detect and/or analyze radioactive/nuclear material has been assessed in the framework of an assessment programme as described above.

The successful tenderer will be required to supply instruments conforming to the following technical specifications:

#### **I.2.1.1 General requirements**

The following features are considered essential for the proper usability of a portable HPGe-detector:

- a) Single-handed operation even with protective gloves
- b) Design as compact and light as reasonably possible in order to assure portability
- c) Rugged and designed for outdoor use in wide range of temperature and humidity
- d) Easy decontamination (smooth surface, not absorbing or retaining radioactive material)
- e) Manual of operation and full documentation describing the physical and electrical properties of each detection unit in English, French and German
- f) Robust and cushioned transport case or cases (preferably with wheels) suitable for long distance transport by air or road should be included in the offer; the case(s) should be able to contain the detection unit and all its accessories (shielding,

collimators, filling device, cables) plus the multi channel analyzer MCA-166 and its charger (see Annex 1) and a small (netbook size) instrument computer.

### **I.2.1.2 Physical dimensions and weight**

The necessity for an inspector to carry the device to and within a nuclear installation probably over long distances requires that the device has a limited weight being as compact as possible. The weight of the device must be less than 8 kg when filled with the maximum amount of liquid nitrogen; a lower weight is highly desirable. The maximum physical dimensions shall be 50 cm x 40 cm x 30 cm.

### **I.2.1.3 Detector construction**

For the passive determination of the composition of nuclear material the device requires a High-Purity Germanium Detector (HPGe) having a sufficiently good energy resolution (FWHM of 650 eV or less at 122 keV). The active area of the crystal must at least be 500 mm<sup>2</sup> and its thickness (10-15 mm) should be optimized for use with gamma energies in the range 50-300 keV. The crystal must be contained in a robust end-cap. The optimum bias high voltage (preferably negative) must lie within the range -3500/+3500V.

### **I.2.1.4 Detector cooler**

HPGe detectors require cooling to the temperature of liquid nitrogen in order to be able to record gamma spectra. The device must have a built-in cryostat sufficient to hold enough liquid nitrogen to allow full autonomous detector operation for at least 36 hours. The cool-down time of the crystal must not exceed 4 hours.

For filling the cryostat with liquid nitrogen, a safe, ergonomic and portable device for filling must be provided as an accessory. Preferably the design of the cryostat should allow detector operation in both horizontal and vertical orientation.

### **I.2.1.5 Preamplifier**

The preamplifier must have a high count rate LED indication, automatic HV shutdown and protection in case of detector warm-up as well as a LED indication of the temperature status of the crystal. Its power consumption should be less than the following values:

30 mA on +12V, 30 mA on -12V

30 mA on +24V, 30 mA on -24V

The connectors of the preamplifier must be fixed to the detector, preamplifier or frame in such a way as to minimize the strain on the cables and must be compatible for use with the multi channel analyzer MCA-166 (see Annex 1).

### **I.2.1.6 Shielding and collimation**

The detector must include a gamma ray shielding equivalent to about 6 mm of tungsten. This shielding must be coated with filters of appropriate materials to avoid the detection of heavy metal X-rays. The shielding part can be either an integrated part of the detection unit or must be able to be mounted onto the detection unit. A set of at least 3 collimators (3 different aperture sizes) that can be fixed onto the front of the shielding must be provided as part of the detection unit. The collimator set must also be coated with filters of appropriate materials to avoid the detection of heavy metal X-rays.

### **I.2.1.7 Miscellaneous**

The detection unit must be supplied with 2 complete 3m-long cables sets (preamplifier power, test, signal, bias shutdown and HV cables all grouped in 1 sleeve). All cable ends must be clearly labelled.

The offer should contain a dimensioned schematic drawing of the complete detection unit.

### **I.2.1.8 Warranty**

A full two years of warranty shall be included in the contract.

### ***I.2.2. Delivery***

The contractor may be required to send an appointed person to the Commission to discuss technical as well as organisational details prior to the delivery of the instruments. All related transport and other costs for this will be borne by the tendering company. From previous experience this can be expected to be at least twice for the duration of the framework contract.

The tenderer will deliver the portable HPGe-detectors to the premises of the European Commission in Luxemburg (see below). The delivery shall take place not later than 6 months after the tenderer has received a purchase order.

## **I.3. Lot 2: Portable UF<sub>6</sub> cylinder verification systems**

### ***I.3.1. Purpose of the contract***

In order to be able to cover the metrological needs arising from the inspection activities mentioned above, up to ten UF<sub>6</sub> cylinder verification systems will be purchased in the framework of this contract. The UF<sub>6</sub> cylinder verification system will be used to acquire gamma spectra onsite and to provide an estimation of the measured uranium enrichment. For this purpose it is essential, that the device can be easily carried (having a limited weight) and remains operational for the whole period of the inspection (operating autonomously for several hours). In addition, the device needs to be mounted onto an UF<sub>6</sub> cylinder with a holder to facilitate an accurate measurement result.

The successful tenderer will be required to supply metrology conforming to the following technical specifications:

#### **I.3.1.1 General requirements**

The following features are considered essential for the proper usability of UF<sub>6</sub> cylinder verification systems:

- a) Single-handed operation even with protective gloves
- b) Provision of a holder to temporarily mount the device onto the UF<sub>6</sub> cylinder to allow for longer measurement times
- c) Rugged and designed for outdoor use in wide range of temperature and humidity
- d) Removable tungsten collimator to shield the detector from disturbing gamma radiation below 200 keV except from the front field of view
- e) Illuminated display for use in the dark and also readable in bright sunlight
- f) Easy decontamination (smooth surface, not absorbing or retaining radioactive material)
- g) Suitable documentation for the user in English, French and German
- h) Power on start-up tests (POST) to indicate proper functioning of the instrument
- i) Battery backed up real time clock.

#### **I.3.1.2 Physical dimensions and weight**

The necessity for an inspector to carry the device to and within a nuclear installation, probably over long distances, requires that the device has a limited weight being as compact as possible. The weight of the device must be less than 8 kg; a lower weight is highly desirable. The maximum physical dimensions shall be 50 cm x 40 cm x 30 cm.

#### **I.3.1.3 Detector construction**

For the passive determination of the isotopic composition of uranium the device requires a High-Purity Germanium Detector (HPGe) having a good energy resolution (FWHM of 1.5 keV or less at 122 keV). The detector crystal should be at least 40 mm in diameter and at least 25 mm in length.

#### **I.3.1.4 Detector cooler**

HPGe detectors require cooling to the temperature of liquid nitrogen in order to be able to record gamma spectra. The device shall have a cryostat/cooler which does not require

periodic refilling of liquid nitrogen and allows autonomous operation for at least one week solely depending on electric energy only.

The cooling system must be able to be switched off at any time and in case power is reconnected, the system must have the capability to continue measurements if the cryostat is still cooled down (thus avoiding to fully warm up before cooling down again).

### **I.3.1.5 Operation time**

The UF<sub>6</sub> cylinder verification system shall be able to operate for at least two hours using built-in rechargeable batteries. It is required that the device has the capability to operate autonomously for a longer time (weeks to months) when connected to a recharger/docking station and relying solely on electric energy. As connectors a 12-V-car adapter as well as a 220/230V standard power supply should be included.

The device must allow for a replacement of the built-in rechargeable battery.

### **I.3.1.6 Spectrometer Amplifier/MCA requirements**

The device shall comply with the following specifications:

- a) At least 8192 ADC channels
- b) Adjustment of energy calibration with radioactive source – desirably NORM
- c) Pile-up rejector, pole zero adjustment and baseline restorer
- d) ADC and amplifier dead time correction
- e) Memory for at least 1000 spectra of 8192 channels each
- f) Standard industrial link to PC, spectrum data format preferably in ASCII
- g) User friendly PC support software and easy-to-use transfer software for use by trained inspectors
- h) Response to sudden temperature gradients: should tolerate temperature changes from room temperature to +40°C and -10°C.
- i) Built-in PDA/Pocket-PC (see below) allowing adjustments of the following MCA parameters:
  - High voltage
  - Amplifier settings
  - Presets settings
  - ADC settings
  - Stabilizer settings
  - ROI settings
- j) Values for coarse gain and fine gain adjustable by the end user
- k) Automatic noise suppression

### **I.3.1.7 Pocket-PC/PDA requirements**

Data acquisition and evaluation shall be done with an integrated or attached Pocket-PC/PDA fulfilling the following requirements:

- a) A sunlight-readable touch sensitive display of at least 640x480 pixel resolution
- b) A processor with at least 800 MHz
- c) At least 96 MB of RAM
- d) Built-in data storage of at least 256 MB with the option to expand the storage by memory cards and/or USB sticks
- e) A standard operating system in English language customizable by the end-user (e.g. Windows Mobile or equivalent) to allow the installation of additional user-defined software
- f) Multi-language capability of the operating system is desirable

- g) Software to transfer spectra and user data from the PDA to an external PC via a USB connection
- h) Software for the automatic determination of the isotopic composition of uranium from measured spectra installed

#### **I.3.1.8 Enrichment determination software**

The software installed for the determination of the enrichment of the UF<sub>6</sub> cylinder has to comply with the following specifications:

- a) Software based on the enrichment meter method using the 185.7-keV-peak
- b) User-friendly application allowing to determine the enrichment with a minimum of manual input to be done by the inspector
- c) Functionality to acquire spectra, store spectra, analyze stored data and visualize the results
- d) Utilization of an item database allowing the inspector to store the data of the UF<sub>6</sub> cylinder and to retrieve it later; the item database shall be in ASCII format and easily transferable to an external PC for data processing, editing and updating
- e) Information of the operational functionality of the device (state of health, high voltage, cooler status); any errors detected shall be clearly reported on the display
- f) English user interface; multi-language support desirable (especially support for French and German language)

#### **I.3.1.9 Warranty**

A full two years of warranty shall be included in the offer.

#### ***I.3.2. Delivery***

The contractor may be required to send an appointed person to the Commission to discuss technical as well as organisational details prior to the delivery of metrology. All related transport and other costs for this will be borne by the tendering company. From previous experience this can be expected to be at least twice for the duration of the framework contract.

The successful tenderer will deliver the UF<sub>6</sub> cylinder verification system to the premises of the European Commission in Luxemburg.

#### ***I.3.3. Demonstration and training exercises***

The tenderer shall organise demonstration and training exercises to provide a methodological introduction to nuclear inspectors and to demonstrate the capabilities of the device in a hands-on exercise. The Commission will decide upon the participants (up to 25 persons of the Commission) and will cover all costs for Commission employees. The tenderer shall provide at least one expert who is familiar with the device and who will act as mentor for the participants. In addition, the tenderer shall include at least one external expert from a nuclear research facility (or a nuclear authority) of the European Union acting as a scientific advisor to improve the quality of the demonstration exercise. The nominated external expert needs to have several years of experiences with portable HPGe spectrometers (similar to the one implemented in the framework of the current tender) and has to be approved by the Commission before the demonstration exercise starts.

The Commission will provide suitable samples of nuclear material for the demonstration exercise. It shall take place at the premises of the Commission, either in Luxembourg and/or at a site of the Joint Research Centre (preferably in Ispra/Italy). The Commission reserves the right to change the place of the training in case of substantial reasons related to the implementation of the current tender.

The duration of a demonstration and training exercise will be of 5 working days (from Monday to Friday).

The Commission may purchase up to 3 demonstration and training exercises under the contract.

An amount per demonstration and training exercise of 5 working days shall be specified separately in the financial offer.

#### ***1.3.4. Spare Parts***

In addition, the tenderer shall provide a detailed list of recommended spare parts that could be used to repair and/or upgrade the UF<sub>6</sub> cylinder verification system.



## **II. TERMS OF CONTRACT**

In drawing up his offer, the tenderer should bear in mind the provisions of the draft contract attached to this invitation to tender (Annex 6). Any limitation, amendment or denial of the terms of contract will lead to automatic exclusion from the procurement procedure.

The Commission may, before the contract is signed, either abandon the procurement procedure or cancel the award procedure without the tenderers being entitled to claim any compensation.

### **II.1. Terms of payment**

Payments shall be made in accordance with the provisions specified in Annex 6, the draft supply contract.

### **II.2. Financial guarantees**

#### **Guarantee on pre-financing**

The guarantee on pre-financing is not applicable as no prefinancing will be paid.

### **II.3. Subcontracting**

Subcontracting will not be allowed.

### **II.4. Legal form to be taken by the grouping of supply providers to whom the contract is awarded (if applicable)**

Groupings, irrespective of their legal form, may submit bids. Tenderers may, after forming a grouping, submit a joint bid on condition that it complies with the rules of competition. Such groupings (or consortium) must specify the company or person heading the project and must also submit a copy of the document authorising this company or person to submit a bid. If awarded, the contract will be signed by the company of the person heading the project, who will be, vis à vis the Commission, the only contracting party responsible for the performance of this contract. Tenders from a consortium of firms or groups of service providers, contractors or suppliers must specify the role, qualifications and experience of each member of the consortium or group. Each member must provide all the necessary documents for assessing the bid as a whole with regard to the exclusion criteria, selection criteria (all of them) and award criteria.

## **III. FORM AND CONTENT OF THE TENDER**

### **III.1. General**

Tenders must be written in **one of the official languages** of the European Union.

Tenders must be clear and concise, with continuous page numbering, and assembled in a coherent fashion (e.g. bound or stapled, etc...).

Since tenderers will be judged on the content of their written bids, they must make it clear that they are able to meet the requirements of the specifications.

## III.2. Structure of the tender

All tenders must include three sections i.e. an administrative, a technical and a financial proposal.

### *III.2.1. Section One: Administrative proposal*

This section must provide the following information, set out in the standard identification forms attached to these tender specifications (Annexes 2, 3 and 4):

1. Tenderers' identification (Annex 2)

- All tenderers must provide proof of **registration**, as prescribed in their country of establishment, on one of the **professional or trade registers** or provide a declaration or certificate.
- If the tenderer is a natural person, he/she must provide a copy of the identity card/passport or driving licence and proof that he/she is covered by a social security scheme as a self-employed person.

*Each tenderer must complete and sign the identification forms in Annex 2 and also provide above-mentioned documents.*

2. Financial identification (Annex 3)

The **bank identification form** must be filled in and signed by an authorised representative of the tenderer and his/her banker. A standard form is attached in Annex 3 and a specific form for each Member State is available at the following Internet address:

[http://ec.europa.eu/budget/execution/ftiers\\_en.htm](http://ec.europa.eu/budget/execution/ftiers_en.htm)

In the case of a grouping, this form must only be provided by the person heading the project.

3. Legal entities (Annex 4)

The legal entity form in Annex 4 must be filled in and should be accompanied by a number of supporting documents, available on the Web site:

[http://ec.europa.eu/budget/execution/legal\\_entities\\_en.htm](http://ec.europa.eu/budget/execution/legal_entities_en.htm)

In the case of a grouping, this form must only be provided by the person heading the project.

The Commission reserves the right, however, to request additional evidence in relation to the bid submitted for evaluation or verification purposes within a time-limit stipulated in its request.

### *III.2.2. Section Two: Technical proposal*

This section is of great importance in the assessment of the bids, the award of the contract and the future execution of any resulting contract.

The technical proposal must provide all the information needed for the purpose of awarding the contract.

### *III.2.3. Section Three: Financial proposal*

All tenders must contain a financial proposal and should include :

- For lot 1: fixed price for one unit of HPGe detector

- For lot 2:
  - Fixed price for one UF<sub>6</sub> cylinder verification system
  - Fixed price for one week demonstration and training exercise
  - List of spare parts with fixed price for the whole duration of the framework contract.

The tenderer's attention is drawn to the following points:

- Prices must be quoted (**Euros/unit**) for each category of equipment
- Prices must be quoted in **Euros**, including the countries which are not in the Euro-area. As far as the tenderers of those countries are concerned, they cannot change the amount of the bid because of the evolution of the exchange rate. The tenderers choose the exchange rate and assume all risks or opportunities relating to the rate fluctuation.
- Prices must be fixed amounts and include all expenses, such as travel expenses and daily allowances.
- **Prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT**, as the Communities are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 (OJ L 152 of 13 July 1967). Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption. For those countries where national legislation provides an exemption by means of a reimbursement, the amount of VAT is to be shown separately. In case of doubt about the applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Community is exempt from VAT.
- **Prices must be fixed** and not subject to revision during the performance of the contract.

**Bids involving more than one supply provider (consortium) must specify the amounts indicated above for each provider.**

#### **IV. ASSESSMENT AND AWARD OF THE CONTRACT**

The assessment will be based on each tenderer's bid.

All the information will be assessed in the light of the criteria set out in these specifications. The procedure for the award of the contract, which will concern only admissible bids, will be carried out in three successive stages.

The aim of each of these stages is:

- 1) to check on the basis of the exclusion criteria, whether tenderers can take part in the tendering procedure;
- 2) to check on the basis of the selection criteria, the technical and professional capacity and economic and financial capacity of each tenderer;

- 3) to assess on the basis of the award criteria each bid which has passed the exclusion and selection stages.

## **IV.1. Exclusion criteria (exclusion of tenderers)**

### ***IV.1.1. Exclusion criteria (Article 93 Financial Regulation<sup>1</sup>)***

1. To be eligible for participating in this contract award procedure, tenderers must not be in any of the following exclusion grounds:
  - (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
  - (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
  - (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
  - (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
  - (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
  - (f) they are currently subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation<sup>2</sup> for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a contract procurement procedure or by the authorising officer as a condition of participation in a grant award procedure, for failing to supply this information or for having been declared to be in serious breach of their obligations under contracts or grants covered by the Community budget.
2. The cases referred to in point IV.1.1. 1.e) above shall be the following:
  - (a) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests established by the Council Act of 26 July 1995 (OJ/C 316 of 27.11.1995, p. 48);
  - (b) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, established by the Council Act of 26 May 1997 (OJ/C 195 of 25.6.1997, p. 1);

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<sup>1</sup> Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248 of 16.9.2002)

<sup>2</sup> Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial regulation applicable to the general budget of the European Communities, OJ L 248 of 16 September 2002, p. 1, amended by Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006, OJ L 390 of 30 December 2006, p.1.

- (c) cases of involvement in a criminal organisation, as defined in Article 2(1) of Joint Action 98/733/JHA of the Council (OJ/L 315 of 29.12.1998, p. 1);
- (d) cases of money laundering as defined in Article 1 of Council Directive 91/308/EEC (OJ/L 166 of 28.6.1991, p.77).

#### ***IV.1.2. Other cases of exclusion (Article 94 Financial Regulation)***

**Contracts will not be awarded** to tenderers who, during the procurement procedure:

a) **are subject to a conflict of interest;**

Tenderers must declare:

- that they do not have any conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties, or any other relevant connection or shared interest;
- that they will inform the contracting authority, without delay, of any situation constituting a conflict of interest or which could give rise to a conflict of interest;
- that they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- that they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have 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 the award of the contract.

The Commission reserves the right to check the above information.

- b) **are guilty of misrepresentation** in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.
- c) find themselves in one of the **situations of exclusion**, referred to in paragraph IV.1.1. above for this procurement procedure.

#### ***IV.1.3. Evidence to be provided by the tenderers***

1. When submitting their bids, each tenderer shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations mentioned above (cf. IV.1.1 and VI.1.2). For that purpose, they must complete and sign the form attached in Annex 5. Where the tenderer is a legal entity, they shall, whenever requested by the Commission, provide information on the ownership or on the management, control and power of representation of the legal entity.
2. The tenderer to whom the contract is to be awarded shall provide, within 15 calendar days after notification of the results of the procurement procedure and in any case before the signature of the contract, the following evidence, confirming the declaration referred to above:

The Commission shall accept, as satisfactory evidence that the tenderer is not in one of the situations described in point IV.1.1 (a), (b) or (e) above, a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or

administrative authority in the country of origin or provenance showing that those requirements are satisfied.

The Commission accepts, as satisfactory evidence that the tenderer is not in the situation described in point IV.1.1 (d) above, a recent certificate issued by the competent authority of the State concerned.

Where no such document or certificate is issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

3. Depending on the national legislation of the country in which the candidate or tenderer is established, the documents referred to in paragraph 1 and 2 above shall relate to legal and/or natural persons including, if applicable with regard to points b) and e), company directors or any person with powers of representation, decision-making or control in relation to the tenderer.
4. The Commission reserves the right to request any other document relating to the proposed tender for evaluation and verification purpose, within a delay determined in its request.

**Remark:**

The tenderers will be waived of the obligation to submit the documentary evidence above mentioned if such evidence has already been submitted for the purposes of another procurement procedure launched by Directorate General for Energy and provided that the documents are not more than one year old starting from their issuing date and that they are still valid. In such a case, the tenderer shall declare on his honour that the documentary evidence has already been provided in a previous procurement procedure, specifying the reference of the call for tender for which the documents have been provided, and confirm that no changes in his situation have occurred.

***IV.1.4. Administrative and financial penalties***

Without prejudice to the application of penalties laid down in the contract, candidates or tenderers and contractors who have been found guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or have failed to supply this information or have been declared to be in serious breach of their obligations under contracts covered by the Community budget may be subject to administrative or financial penalties, in accordance with Article 96 of the Financial Regulation and Articles 134b and 133a of the Implementing Rules<sup>3</sup>.

**IV.2. Selection criteria (selection of tenderers)**

To be eligible, the tenderers must have the economic and financial capacity as well as the technical and professional capacity to perform the tasks required in this call for tender.

***IV.2.1. Economic and financial capacity – References required (identical for lot 1 and lot 2)***

The tenderer must provide proof of their financial and economic capacity by means of the following documents: the balance sheets or extracts from balance sheets for the last three

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<sup>3</sup> Commission Regulation (EC, Euratom) n° 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, OJ L 357 of 31 December 2002, p. 1, last amended by Commission Regulation (EC, Euratom) n° 478/2007 of 23 April 2007, OJ L 111 of 28 April 2007, p.1.

financial years, and a statement of overall turnover relating to the relevant services for the last three financial years.

#### ***IV.2.2. Technical and professional capability – References required***

##### **IV.2.2.1 Lot 1**

The tenderer has to submit substantial evidence to prove

- their experience in the area of nuclear measurement techniques by providing a list of relevant activities in the last five years,
- the employment of staff with more than three years of professional experience in gamma spectroscopy,
- participation in a transnational radiation detection technology assessment programme under the auspices of an international organisation (e.g. the ITRAP programme under the auspices of the IAEA, or equivalent) to certify tested reliability of the products of the tenderer<sup>4</sup>.

For all points mentioned above supporting documentation will have to be provided.

##### **IV.2.2.2 Lot 2**

The tenderer should submit substantial evidence to prove

- their experience in the area of nuclear measurement techniques by providing a list of relevant activities in the last three years,
- the employment of staff with more than three years of professional experience in gamma spectroscopy.

For all points mentioned above supporting documentation will have to be provided.

### **IV.3. Evaluation of tenders – Award criteria**

#### ***IV.3.1. Lot 1***

The contract will be awarded according to the criteria given below, on the basis of the economically most advantageous tender.

Only bids that have reached a total score of a minimum of 70% and a minimum score of 60 % for each criterion listed below will be taken into consideration for awarding the contract.

The result of this evaluation will be based on the technical documentation supplied with the tender. The contract will be awarded to the tender who offers the best ratio quality/price (Q/P).

#### **a) Evaluation of quality**

The technical evaluation criteria in their order of importance are given in the table below:

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<sup>4</sup> Under exceptional circumstances it will be taken into consideration if the tenderer i) is currently participating in an ongoing transnational radiation detection technology assessment programme under the auspices of an international organisation (e.g. the ITRAP programme under the auspices of the IAEA, or equivalent), ii) agrees to provide evidence of being registered at the date of publication of this tender and iii) obliges itself to provide proof of the fact that its equipment has been or is being assessed and detected deficiencies have been or will have been fixed.

Nr.	Award criteria	Weighting
1	Efficiency and precision of the detector (see I.2.1)	45
2	Design and portability of the detector	35
3	Certification and technical documentation	10
4	Quality and detail of the tender dossier	10
	<b>Maximum amount of points</b>	<b>100</b>

The result of the technical evaluation will be a quality coefficient Q for the tender.

b) Evaluation of the price P

Solely for the purpose of evaluating the tenders and in order to allow a comparison of prices, P will be the price of one portable HPGe-detector.

The price of those bids reaching the minimum criteria mentioned above will be used to determine the price coefficient P. The coefficient Q/P will be calculated for each bid to identify the economically most advantageous tender.

**IV.3.2. Lot 2**

The contract will be awarded according to the criteria given below, on the basis of the economically most advantageous tender.

Only bids that have reached a total score of a minimum of 70% and a minimum score of 60 % for each criterion listed below will be taken into consideration for awarding the contract.

The result of this evaluation will be based on the technical documentation supplied with the tender. The contract will be awarded to the tender who offers the best ratio quality/price (Q/P).

a) Evaluation of quality

The technical evaluation criteria in their order of importance are given in the table below:



Nr.	Award criteria	Weighting
1	Efficiency and precision of the device (see I.3.1)	55
2	Design and portability of the device	25
3	Certification and technical documentation	10
4	Quality and detail of the tender dossier	10
	<b>Maximum amount of points</b>	<b>100</b>

The result of the technical evaluation will be a quality coefficient Q for the tender.

#### b) Evaluation of the price P

Solely for the purpose of evaluating the tenders and in order to allow a comparison of prices, P will be the price of 10 UF<sub>6</sub> cylinder verification systems plus the price of 2 demonstration and training exercise (of one week each) .

The price of those bids reaching the minimum criteria mentioned above will be used to determine the price coefficient P. The coefficient Q/P will be calculated for each bid to identify the economically most advantageous tender.

#### IV.4. Information for tenderers

The Commission will inform tenderers of decisions reached concerning the award of the contract, including the grounds for any decision not to award a contract or to recommence the procedure.

If a written request is received, the Commission will inform all rejected tenderers of the reasons for their rejection and all tenderers submitting an admissible tender of the characteristics and relative advantages of the selected tender and the name of the successful tenderer.

However, certain information may be withheld where its release would impede law enforcement or otherwise be contrary to the public interest, or would prejudice the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

#### V. ANNEXES

1. Technical information related to MCA-166
2. Identification of the tenderer
3. Financial identification
4. Legal entity form
5. Declaration by the tenderer
6. Draft framework supply contract

## **ANNEX 1 – TECHNICAL INFORMATION RELATED TO MCA-166**

The technical specifications of the Multichannel Analyzer MCA-166 are available on the website of the manufacturer, which can be accessed using the following link:

for MCA-166: [http://www.gbs-elektronik.de/mca/mmca\\_2\\_2.pdf](http://www.gbs-elektronik.de/mca/mmca_2_2.pdf) (page 47-53)

for MCA-166 USB: [http://www.gbs-elektronik.de/mca/mmca\\_3\\_0.pdf](http://www.gbs-elektronik.de/mca/mmca_3_0.pdf) (page 16-21).

## ANNEX 2 – IDENTIFICATION OF THE TENDERER

<b>Identity</b>	
Name of the tenderer	
Legal status of the tenderer	
Date of registration	
Country of registration	
Registration number	
VAT number	
Description of statutory social security cover (at the level of the Member State of origin) and non-statutory cover (supplementary professional indemnity insurance) <sup>5</sup>	
<b>Address</b>	
Address of registered office of tenderer	
Where appropriate, administrative address of tenderer for the purposes of this invitation to tender	
<b>Contact Person</b>	
Surname: First name: Title (e.g. Dr, Mr, Ms) : Position (e.g. manager): Telephone number: Fax number: E-mail address:	
<b>Legal Representatives</b>	
Names and function of legal representatives and of other representatives of the tenderer who are authorised to sign contracts with third parties	

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<sup>5</sup> For natural persons

**Declaration by an authorised representative of the organisation<sup>6</sup>**

I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.

Surname:  
First name:

Signature:

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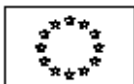
<sup>6</sup> This person must be included in the list of legal representatives; otherwise the signature on the tender will be invalidated.

## ANNEX 3 – FINANCIAL IDENTIFICATION

(to be completed by the tenderer and his or her financial institution)

The tenderer's attention is drawn to the fact that this document is a model and that a specific form for each Member State is available at the following Internet address:

[http://ec.europa.eu/budget/execution/ftiers\\_en.htm](http://ec.europa.eu/budget/execution/ftiers_en.htm)



### FINANCIAL IDENTIFICATION

PRIVACY STATEMENT

[http://ec.europa.eu/budget/execution/ftiers\\_fr.htm](http://ec.europa.eu/budget/execution/ftiers_fr.htm)

ACCOUNT NAME	
ACCOUNT NAME <sup>(1)</sup>	<input type="text"/>
	<input type="text"/>
ADDRESS	<input type="text"/>
	<input type="text"/>
TOWN/CITY	<input type="text"/>
POSTCODE	<input type="text"/>
COUNTRY	<input type="text"/>

CONTACT	<input type="text"/>
TELEPHONE	<input type="text"/>
FAX	<input type="text"/>
E - MAIL	<input type="text"/>

BANK	
BANK NAME	<input type="text"/>
	<input type="text"/>
BRANCH ADDRESS	<input type="text"/>
	<input type="text"/>
TOWN/CITY	<input type="text"/>
POSTCODE	<input type="text"/>
COUNTRY	<input type="text"/>
ACCOUNT NUMBER	<input type="text"/>
IBAN <sup>(2)</sup>	<input type="text"/>

REMARKS:

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<b>BANK STAMP + SIGNATURE OF BANK REPRESENTATIVE</b> (Both Obligatory) <sup>(3)</sup>	<b>DATE + SIGNATURE ACCOUNT HOLDER :</b> (Obligatory)
    	DATE <input type="text"/>

<sup>(1)</sup> The name or title under which the account has been opened and not the name of the authorized agent

<sup>(2)</sup> If the IBAN Code (International Bank account number) is applied in the country where your bank is situated

<sup>(3)</sup> It is preferable to attach a copy of recent bank statement, in which event the stamp of the bank and the signature of the bank's representative are not required. The signature of the account-holder is obligatory in all cases.

## **ANNEX 4 - LEGAL ENTITY FORM**

Complete the legal entity form, which should be accompanied by a number of supporting documents, available on the Web site:

[http://ec.europa.eu/budget/info\\_contract/legal\\_entities\\_en.htm?submenuheader=0](http://ec.europa.eu/budget/info_contract/legal_entities_en.htm?submenuheader=0)

Please note that we can only accept either original documents or certified copies, which must be less than 6 months old.

In the case of a grouping, this form must only be provided by the person heading the project.

**ANNEX 5 - DECLARATION BY THE TENDERER**

Each service provider must sign this declaration

- 1. In accordance with Article 93 of the Financial Regulation,<sup>7</sup> I declare on my honour that I am not in any of the following situations which would exclude me from participating in this procurement procedure:
  - a) I am not bankrupt, being wound up or having my affairs administered by the courts, I have not entered into an arrangement with creditors, I have not suspended business activities, I am not the subject of proceedings concerning any such matters, and I am not in any similar situation arising from a similar procedure provided for in legislation or regulations;
  - b) I have not been convicted of an offence concerning my professional conduct by a judgment which has the force of res judicata;
  - c) I have not been found guilty of grave professional misconduct proven by any means which the contracting authority can justify;
  - d) I have not failed to fulfil obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which I am established or with those of the country or the contracting authority or those of the country where the contract is to be performed;
  - e) I have not been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Community or Union' financial interests;
  - f) I am currently not subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a contract procurement procedure or by the authorising officer as a condition of participation in a grant award procedure, for failing to supply this information or for having been declared to be in serious breach of their obligations under contracts or grants covered by the Union budget.
- 2. In addition, the undersigned declares on his or her honour:
  - a) that on the date of submission of the tender, the company or organisation I do represent and the staff proposed for this tender are not subject to a conflict of interests in the context of this invitation to tender; I undertake to inform the Commission without delay of any change to this situation after the date of submission of the tender.
  - b) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.

Done at ..... on.....

Name .....Title .....

Signature:

<sup>7</sup> Council Regulation (EC, Euratom) No. 1605/2002 of 25 June 2002 on the Financial regulation applicable to the general budget of the European Communities, OJ L 248 of 16 September 2002, p. 1, amended by Council Regulation (EC, Euratom) n° 1995/2006 of 13 December 2006, OJ L 390 of 30 December 2006, p.1.

## ANNEX 6 – DRAFT FRAMEWORK SUPPLY CONTRACT



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR ENERGY

Directorate Nuclear Safeguards

## DRAFT FRAMEWORK SUPPLY CONTRACT

CONTRACT NUMBER – [ ]

The European Atomic Energy Community (hereinafter referred to as "the Community"), represented by the European Commission (hereinafter referred to as "the Commission"), which is represented for the purposes of the signature of this contract by Mr. P. Szymanski, Director in the Directorate-General for Energy, Directorate Nuclear Safeguards

of the one part,

and

[official name in full]

[official legal form]

[statutory registration number]

[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** – Tender Specifications (Invitation to Tender No N° ENER/E1/112-3/2010)

**Annex II** – Contractor's Tender (No [*complete*])

**Annex III** – Form of "Purchase Order"

**Annex IV** – Form of "Record of Technical Acceptance"

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 Annexes. The terms set out in the Tender Specifications (Annex I) shall take precedence over those in the Tender (Annex II).

Subject to the above, the several instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by the Commission, subject to the rights of the Contractor under Article I.7 should he dispute any such instruction.

## **I – SPECIAL CONDITIONS**

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

- I.1.1** The subject of the Contract is to implement improved metrology for portable High-Purity Germanium gamma detectors (Lot 1) and portable UF6 cylinder verification systems (Lot 2).
- I.1.2** When an Order is issued, the Contractor shall supply the goods and shall provide the services related to them in accordance with the Tender Specifications annexed to the Contract (Annex I) and his specific Tender.
- I.1.3** The Contract does not confer on the Contractor any exclusive right to supply the goods referred to in the above paragraph.
- I.1.4** Signature of the Contract imposes no obligation on the Commission to purchase.
- I.1.5** All Orders pursuant to the Contract shall conform to the terms set out therein.

### **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** Under no circumstances may implementation commence and Orders be placed before the date on which the Contract enters into force.
- I.2.3** The Contract is concluded for a period of 48 months with effect from the date on which it enters into force. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated.
- I.2.4** The Orders pursuant to the Contract shall be placed by the Commission and the Order Forms returned by the Contractor before the Contract expires.  
The Contract shall continue to apply to Orders executed after the Contract expires. Such Orders shall be executed no later than 6 months thereafter.

### **ARTICLE I.3 –PRICES**

- I.3.1** The prices of the goods (and services) shall be as listed in Annex II.
- I.3.2** Prices shall be expressed in EUR.
- I.3.3** Prices shall be fixed and not subject to revision for the duration of the Contract.

### **ARTICLE I.4 – ORDER AND PAYMENT PERIODS**

Payments under the Contract shall be made in accordance with Article II.5. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted. Payment requests may not be made if payments for previous orders have not been executed as a result of default or negligence on the part of the Contractor.

**I.4.1** Orders shall be placed and executed in accordance with Article II.1.1.

Within 20 calendar days of the Order Form being sent by the Commission, the Contractor shall return it, duly signed and dated. The period allowed for delivery shall start to run on the date the Contractor receives the Order Form, unless a specific date is indicated on the Form. In the event of failure to observe the deadline, Article II.4 shall apply:

**I.4.2** The goods shall be delivered at

European Commission  
Rue Henri M. Schnadt  
L -2530 Luxembourg

Person to contact for the delivery :

**Renzo MADABENI - tél : (+352) 661.401.671**

The Contractor shall notify the Commission of the exact date of delivery at least 10 days in advance. All deliveries shall be made between 09:00 hours and 12:00 and between 14:00 and 17:00 at the agreed place of delivery.

**I.4.3** Payment of the balance

The request for payment of the balance (one single payment for each order) shall be admissible if accompanied by the relevant invoice, indicating the reference number of the Contract and of the Order to which it refer, provided the delivery(ies) has(ve) been approved by the Commission. Approval will be provided by transmitting the record of technical acceptance (Certificate of conformity according to Article II.1.1, Annex IV).

The Commission shall have 60 days from receipt to approve or reject the goods, and the Contractor shall have 30 days in which to submit additional information, provide corrective actions or new goods.

Within 30 days of the date of receipt of the relevant invoice, payment corresponding to the relevant invoice shall be made, provided that the goods have been approved by the Commission (Annex IV).

For Contractors established in Belgium, the Order shall include the following provision: "En Belgique, l'utilisation de ce bon de commande vaut présentation d'une demande d'exemption de la TVA n° 450" or an equivalent statement in the Dutch or German language. The Contractor shall include the following statement in his invoice(s): "Exonération de la TVA, article 42, paragraphe 3.3 du code de la TVA" or an equivalent statement in the Dutch or German language.

## **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 in full: [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 and Order numbers. Ordinary mail shall be deemed to have been received by the Commission on the date on which it is registered by the department responsible indicated below. Communications shall be sent to the following addresses

### Commission:

European Commission  
Directorate-General for Energy  
Directorate E – Nuclear Safeguards  
Complexe Euroforum  
1, rue Henry M. Schnadt  
Zone d'activités Cloche d'Or  
L-2530 Luxembourg

### Contractor:

Mr/Mrs/Ms *[to be completed]*  
*[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 law of the Community and of the European Union complemented, where necessary, by the national substantive law of Luxembourg.

**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 Luxembourg.

## **ARTICLE I.8 – DATA PROTECTION**

Any personal data included in the Contract shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. It shall be processed solely for the purposes of the performance, management and follow-up of the Contract by the entity acting as data controller within DG ENER without prejudice to possible transmission to internal audit services, to the Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF) for the purposes of safeguarding the financial interests of the Community and of the Union. The Contractor shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the Contractor have any queries concerning the processing of his personal data, he shall address them to the entity acting as data controller within DG ENER. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

## **ARTICLE I.9 – CONTRACT CONCLUDED DURING STANDSTILL PERIOD**

If this Contract was signed by both the Commission and the Contractor before the expiry of 14 calendar day period from the day after simultaneous dispatch of information about the award decisions and decisions to reject, this Contract shall be null and void.

## **II – GENERAL CONDITIONS**

### **ARTICLE II.1 - PROCEDURES FOR PERFORMING THE CONTRACT**

#### **II.1.1 Phases of execution of the Order**

##### **Sending of the Order Form**

Whenever the Commission wishes goods to be supplied pursuant to the Contract, it shall send an Order Form to the Contractor, in duplicate, specifying the terms of supply of the goods, such as quantity, designation, quality, price, place of delivery and time allowed for delivery, in accordance with the conditions laid down in the Contract.

##### **Acknowledgment of the Order by the Contractor**

Within the period indicated in Article I.4, the Contractor shall return one original of the Order Form, duly signed and dated, thereby acknowledging receipt of the Order and acceptance of the terms.

##### **Delivery**

a) Time allowed for delivery

The time allowed for delivery shall be calculated in accordance with Article I.4.

b) Date, time and place of delivery

The Commission shall be notified in writing of the exact date of delivery within the period indicated in Article I.4. All deliveries shall be made at the agreed place of delivery during the hours indicated in Article I.4.

The Contractor shall bear all costs and risks involved in delivering the goods to the place of delivery.

c) Consignment note

Each delivery shall be accompanied by a consignment note in duplicate, duly signed and dated by the Contractor or his carrier, giving the Order number and particulars of the goods delivered. One copy of the consignment note shall be countersigned by the Commission and returned to the Contractor or to his carrier.

##### **Certificate of conformity**

Signing of the consignment note by the Commission, as provided for in subparagraph c) above, is simply an acknowledgment of the fact that the goods have been delivered and in no way implies conformity of the goods with the Order.

Conformity of the goods delivered shall be evidenced by the signing of a certificate to this effect by the Commission no later than one month after the date of delivery, unless provision is made for a different period in the Special Conditions or in Annex I.

Conformity shall be declared only where the conditions laid down in the Contract and in the Order are satisfied and the goods conform to Annex I.

Where, for reasons attributable to the Contractor, the Commission is unable to accept the goods, the Contractor shall be notified in writing at the latest by the deadline for conformity.

### **Conformity of the goods delivered with the Contract**

- a) The goods delivered by the Contractor to the Commission must be in conformity in quantity, quality, price and packaging with the Contract and the relevant Order.
- b) The goods delivered must:
  - correspond to the description given in Annex I and possess the characteristics of the goods supplied by the Contractor to the Commission as a sample or model;
  - be fit for any specific purpose required of them by the Commission and made known to the Contractor at the time of conclusion of the Contract and accepted by the Contractor;
  - be fit for the purposes for which goods of the same type are normally used;
  - demonstrate the quality and performance which are normal in goods of the same type and which the Commission can reasonably expect, given the nature of the goods and taking into account any public statements on the specific characteristics of the goods made by the Contractor, the producer or his representative, particularly in advertising or on labelling;
  - be packaged according to the usual method for goods of the same type or, failing this, in a way designed to preserve and protect them.

### **Remedy**

- a) The Contractor shall be liable to the Commission for any lack of conformity which exists at the time the goods are verified.
- b) In case of lack of conformity, without prejudice to Article II.4 regarding liquidated damages applicable to the total price of the goods concerned, the Commission shall be entitled:
  - either to have the goods brought into conformity, free of charge, by repair or replacement;
  - or to have an appropriate reduction made in the price.
- c) Any repair or replacement shall be completed within a reasonable time and without any significant inconvenience to the Commission, taking account of the nature of the goods and the purpose for which they are required by the Commission.
- d) The term 'free of charge' in paragraph b) refers to the costs incurred to bring the goods into conformity, particularly the cost of postage, labour and materials.

## **Assembly**

If required by Article I.1.2 of the Special Conditions, the Contractor shall assemble the goods delivered within a period of one month unless otherwise specified in the Special Conditions or in Annex 1.

Any lack of conformity resulting from incorrect installation of the goods delivered shall be deemed to be equivalent to lack of conformity of the goods if installation forms part of the Contract and the goods were installed by the Contractor or under his responsibility. This shall apply equally if the product was to be installed by the Commission and was incorrectly installed owing to a shortcoming in the installation instructions.

## **Services provided to goods**

If required by Annex I, services to goods shall be provided accordingly.

### **II.1.2 General provisions concerning goods**

#### **a) Packaging**

The goods shall be packaged in strong boxes or crates or in any other way that ensures that the contents remain intact and prevents damage or deterioration. Packaging, pallets, etc., including contents, shall not weigh more than 500 kg.

Unless otherwise specified in the Special Conditions or in Annex 1, pallets shall be considered as one-way packaging and shall not be returned. Each box shall be clearly labelled with the following information:

- European Commission and address for delivery;
- name of Contractor;
- description of contents;
- date of delivery;
- number and date of Order Form;
- EC code number of article.

#### **b) Guarantee**

The goods shall be guaranteed against all defects in manufacture or materials for two years from the date of delivery, unless provision is made for a longer period in Annex I.

The Contractor shall guarantee that any permits and licences required for manufacturing and selling the goods have been obtained.

The Contractor shall replace at his own expense, within a reasonable time limit to be determined by agreement between the parties, any items which become damaged or defective in the course of normal use during the guarantee period.

The Contractor is responsible for any conformity defect which exists at the time of delivery, even if this defect does not appear until a later date.



The Contractor is also responsible for any conformity defect which occurs after delivery and is ascribable to non-compliance with his obligations, including failure to provide a guarantee that, for a certain period, goods used for the purposes for which they are normally used or for a specific purpose will preserve their qualities or characteristics as specified.

If part of an item is replaced, the replacement part shall be guaranteed under the same terms and conditions for a further period of the same duration as that specified above.

If a defect is found to originate in a systematic flaw in design, the Contractor must replace or modify all identical parts incorporated in the other goods that are part of the Order, even though they may not have been the cause of any incident. In this case, the guarantee period shall be extended as stated above.

### **II.1.3 Performance of the Contract**

- a) 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.
- b) 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 Orders are to be executed.
- c) The Contractor must ensure that any staff performing the Contract have the professional qualifications and experience required for execution of the Orders.
- d) In the event of disruption resulting from the action of a member of the Contractor's staff working on Commission premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. The Commission shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. 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 Orders resulting from the replacement of staff in accordance with this Article.
- e) Should any unforeseen event, action or omission directly or indirectly hamper execution of the Orders, either partially or totally, the Contractor shall immediately and at 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 and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.
- f) Should the Contractor fail to perform his obligations under the Contract, 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 liquidated damages, as provided for in Article II.4.

## **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 wilful misconduct or gross 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.10. 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 provide compensation in the event of any action, claim or proceeding brought against the Commission 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 to this end may be borne by the Commission.
- II.2.5** The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant 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 in order to prevent 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. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

The Commission reserves the right to verify that such measures are adequate and may require that additional measures be taken, if necessary, within a time limit which it shall set. The Contractor shall ensure that his staff, board and directors are not placed in a situation which could give rise to conflict of interest. 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, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to the performance of the Contract.

#### **ARTICLE II.4 - LIQUIDATED DAMAGES**

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, 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 decide to impose liquidated damages of 0.2% of the amount of the relevant Order per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgment of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the Commission within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion. The Commission and the Contractor expressly acknowledge and agree that any sums payable under this Article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

#### **ARTICLE II. 5 – INVOICING AND PAYMENTS**

##### a) Pre-financing (not applicable for this contract):

Where required by Article I.4.1 or by the Order issued, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) equal to the amount indicated in the same Article to cover pre-financing under the Contract. Such guarantee may be replaced by a joint and several guarantee by a third party.

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 delivery of goods or execution of related services 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 at the latest 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 delivery of goods or execution of related services. The guarantee shall be retained until the pre-financing has been deducted from payment of the balance. It shall be released the following month. The cost of providing such guarantee shall be borne by the Contractor.

##### b) Payment of the balance:

Within sixty days of receipt by the Contractor of the certificate of conformity of the goods signed by the Commission, he shall submit the relevant invoice, drawn up in duplicate and bearing the Order number, to the Commission for approval.

Where required, it shall be accompanied by a final technical report in accordance with the instructions laid down in Annex I.

If the report is a condition for payment, on receipt the Commission shall have the period of time indicated in the Special Conditions in which:

- to approve it, with or without comments or reservations, or suspend such period and request additional information; or
- to reject it and request a new report.

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

Where the Commission requests a new report, because the one previously submitted has been rejected, this shall be submitted within the period of time indicated in the Special Conditions. The new report shall likewise be subject to the above provisions.

## **ARTICLE II. 6 – GENERAL PROVISIONS CONCERNING PAYMENTS**

**II.6.1** Payments shall be deemed to have been made on the date on which the Commission's account is debited.

**II.6.2** The payment 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 properly produced. In case of doubt on the eligibility of the expenditure indicated in the payment request, the Commission may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

The Commission shall notify the Contractor accordingly and set out the reasons for the suspension by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in Article I.4 shall begin to run again once the suspension has been lifted.

**II.6.3** In the event of late payment the Contractor shall be entitled to interest, provided the calculated interest exceeds EUR 200. In case interest does not exceed EUR 200, 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 Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to

the day of payment. Suspension of payment by the Commission may not be deemed to constitute late payment.

## **ARTICLE II. 7 – RECOVERY**

- II.7.1** If total payments made exceed the amount actually due under the Order 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.7.2** 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.6.3. Interest shall be payable from the calendar day following the expiry of the due date up to the calendar day on which the debt is repaid in full.
- II.7.3** In the event of failure to pay by the deadline specified in the request for reimbursement, the Commission may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on the Union that is certain, of a fixed amount and due. The Commission may also claim against the guarantee.

## **ARTICLE II.8 – TAXATION**

- II.8.1** 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.8.2** The Contractor recognises that the Commission is, as a rule, exempt from all taxes and duties, 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 Union.
- II.8.3** 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 duties, including VAT.
- II.8.4** Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

## **ARTICLE II.9 FORCE MAJEURE AFFECTING THE CONTRACT OR THE ORDER(S)**

- II.9.1** 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 it 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.9.2** Without prejudice to the provisions of Article II.1.3(e), if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.

**II.9.3** 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 for the goods actually delivered and any service provided.

**II.9.4** The contracting parties shall take the necessary measures to reduce damage to a minimum.

#### **ARTICLE II.10 – SUBCONTRACTING**

**II.10.1** 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.10.2** 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 and shall bear exclusive liability for proper performance of the Contract.

**II.10.3** 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.14.

#### **ARTICLE II.11 – ASSIGNMENT**

**II.11.1** 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.11.2** 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.12 – TERMINATION BY THE COMMISSION**

**II.12.1** The Commission may terminate the Contract in the following circumstances:

- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

- (b) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
- (c) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of professional misconduct;
- (d) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Community's or Union's financial interests;
- (e) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the Contract;
- (f) where the Contractor is in breach of his obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by the Commission as a condition of participation in the Contract procedure or failed to supply this information;
- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Commission's opinion, have a significant effect on the performance of the Contract;
- (i) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- (j) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

**II.12.2** In case of force majeure, notified in accordance with Article II.9, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a quantity of goods corresponding to at least one fifth of the quantity of goods ordered.

**II.12.3** Prior to termination under point c), d), e), h) or j), the Contractor shall be given the opportunity to submit his observations.

Termination shall take effect on the date on which a registered letter with acknowledgment of receipt terminating the Contract is received by the Contractor, or on any other date indicated in the letter of termination.

**II.12.4** Consequences of termination:

In the event of the Commission terminating the Contract in accordance with this Article and without prejudice to any other measures provided for in the Contract, 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 goods supplied and related services rendered up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

The Commission may claim compensation for any damage suffered and recover any sums paid to the Contractor under the Contract.

On termination the Commission may engage any other contractor to supply the goods and execute the related services. The Commission shall be entitled to claim from the Contractor all extra costs incurred in making good and completing execution, without prejudice to any other rights or guarantees it has under the Contract.

#### **ARTICLE II.12a – SUBSTANTIAL ERRORS, IRREGULARITIES AND FRAUD ATTRIBUTABLE TO THE CONTRACTOR**

Where, after the award of the Contract, the award procedure or the performance of the Contract prove to have been subject to substantial errors, irregularities or fraud, and where such errors, irregularities or fraud are attributable to the Contractor, the Commission may refuse to make payments, may recover amounts already paid or may terminate all the contracts concluded with the Contractor, in proportion to the seriousness of the errors, irregularities or fraud.

#### **ARTICLE II.13 - CANCELLATION OF ORDERS**

Where execution of the Order has not actually commenced within fifteen days of the date foreseen for the commencement of execution and the new date proposed, if any, is considered unacceptable by the Commission, the Commission may cancel such Order with no prior notice. Cancellation shall take effect from the day after the day on which the Contractor receives a registered letter with acknowledgment of receipt or equivalent.

The Commission may cancel an Order at any time during execution thereof on the grounds and under the conditions set out in Article II.12 with respect to the part still outstanding. The Contractor shall accept, as the aggregate liability of the Commission, payment of the price of the goods delivered by him as at the effective date of cancellation.

#### **ARTICLE II.14 – CHECKS AND AUDITS**

**II.14.1** Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the Court of Auditors is empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the Union from signature of the Contract up to five years after payment of the balance of the last Order.



**II.14.2** The Commission or an outside body of its choice shall have the same rights as the Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to five years after payment of the balance of the last Order.

**II.14.3** In addition, the European Anti-Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (Euratom) No 1074/1999 from signature of the Contract up to five years after payment of the balance of the last Order.

#### **ARTICLE II.15 - 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. An Order may not be deemed to constitute an amendment to the Contract.

#### **ARTICLE II.16 – CONFIDENTIALITY**

**II.16.1** 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 performance of the Contract. The Contractor shall continue to be bound by this undertaking after execution of the Orders.

**II.16.2** 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 execution of the Orders.

#### **ARTICLE II.17 – SUSPENSION OF THE CONTRACT**

Without prejudice to the Commission's right to terminate the Contract, the Commission may at any time and for any reason suspend performance of the Contract or pending Orders or any part thereof. Suspension shall take effect on the day the Contractor receives notification by registered letter with acknowledgment of receipt or equivalent, or at a later date where the notification so provides. The Commission may at any time following suspension give notice to the Contractor to resume performance of the Contract or pending Orders. The Contractor shall not be entitled to claim compensation on account of suspension of the Contract or of part thereof.

**SIGNATURES**

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

For the Commission,  
[forename/surname/function]

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

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

Done at \_\_\_\_\_, [date]  
In duplicate in English.


Done at Luxembourg, [date]

## **Annex I - Tender Specifications**

**(Invitation to Tender N° ENER/E1/112-3/2010)**

**Annex II - Contractor's Tender**

# Annex III - Form of "Purchase Order"

	<b>EUROPEAN COMMISSION</b>	<b>PURCHASE ORDER</b> (to be mentioned in all correspondence)	Number of sheets	Sheet N°	Date and Reference of your quote
		<b>ENER/10/NUCL/SI2.XXXXXX/BDC/xx</b>	1	1	xx/xx/xx XXXXXXXX
Directorate-General for Energy (ENER)		Adonis no: XXXXXXXX	XXXXXXXXXX		
Directorate E - Nuclear Safeguards		Contractor Code :	XXXXXXXXXX		
1, rue Henry M. Schnadt		Country of origin : XXXXXX	XXXXXXXXXX		
L-2530, Luxembourg		Currency of payment : EUR			
Tel.: 00352 4301 33874		Code country of origin / Currency			
Fax: 00352 4301 36589		XXX/EUR	VAT: XXXXXXXXXXXXX		
This purchase order is governed by Conditions of the Framework Supply Contract ENER/10/NUCL/SI2.XXXXXX					
This purchase order constitutes acceptance of the Contractor's quote no XXXXXXXX submitted of XXXXXXXX and is valid only if the delivery/performance dates stipulated below are complied with.					
By agreeing to this order, the Contractor states that he is familiar with and accepts the Conditions of the framework contract and waives all other terms of sale or performance of services.					
DESCRIPTION OF THE GOODS OR SERVICES		UNIT	QUANTITY	PRICE in €	
				Unit Price	TOTAL
XXXXXXX					
XXXXXXX					
<p>Your single invoice should be sent to:</p> <p>European Commission                  DG ENER - Section Finance &amp; Contracts - Mr Alain Cluzeau - EUFO 2 - 4475                  Complexe Euroforum, rue Henry M. Schnadt 1                  L-2920 Luxembourg</p> <p>indicating the reference of the purchase order</p>					
Place of Delivery		Packaging			
<b>Commission Europeenne</b>		Insurance			
Zone d'activité Cloche d'Or, DG ENER, Batiment Euroforum, 1 rue Henri Schnadt		Transport			
L-2530 Luxembourg		Assembly			
<b>Contact person at delivery place:</b>		VAT			
<b>Renzo MADABENI - tél : (+352) 661.401.671</b>		<b>TOTAL : - €</b>			
Delivered by : at your charge					
Delivery/Performance : xxxxxxxx					
<b>The Commission will issue the technical acceptance within 60 days from the goods' delivery date.</b>		Pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union, the Commission is exempt from all taxes and dues, including value added tax, on payments due in respect of this Contract. [In Belgium the use of this Contract constitutes a request for VAT exemption. The invoice must include the following statement: "Commande destinée à l'usage officiel de l'Union Européenne, Exonération de la TVA; article 42 § 3,3 du code de la TVA".]			
<b>Payment: 30 days from the most recent of:</b>					
<b>(1) the day of issuance of the technical acceptance by the EC if done within the 60 days time limit, or the day of expiration of the deadline for technical acceptance</b>					
<b>(2) the date of reception of the invoice</b>					
<b>Contractor's bank account:</b>					
XXXXXXXXXXXXXXXXXXXXXXXXXXXX					
<b>Acceptance of the quote by the Commission:</b>		<b>Contractor's signature</b>			
Date of issue :		Name			
Signature : <b>Piotr Szymanski, Director</b>		Position :			
		Date :			
The request for payment shall be admissible only if the Contractor returns a signed copy of this purchase order with the invoice.					
This Contract shall be governed by the law of the Community and of the European Union, complemented where necessary by the Luxembourg law and any dispute shall be brought before the courts of Luxembourg.					

## Annex IV – Form of "Record of Technical Acceptance"

<b>RECORD OF TECHNICAL ACCEPTANCE</b>
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Contract reference:

Contract subject:

The technical approval related to the above mentioned contract has taken place at **DG ENER Luxembourg HQ on**

This technical approval was:

- a complete technical approval: based on delivery note no xxxxxxxxxx dated xxxxxxxx (see copy in Annex)
- a partial technical approval as described below:

and was concluded:

- without any remarks
- with the following remarks:

Nr.	Remark	Date for final approval

- If partial technical approval, please confirm if the total delivery is thus technically accepted: Yes/No

	For the Contractor (if present)	For European Commission (technical responsible)
Date		
Name		
Signature		

Copies (to be sent by the technical responsible):