



EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENERGY AND TRANSPORT

Brussels, 18 August 2007

INVITATION TO TENDER No. TREN/E1/146-2007

(open procedure)

Dear Sir/Madam,

1. The European Commission invites tenders for a service contract regarding the following project:
“Guidelines to establish a European register of road transport undertakings”

This invitation to tender follows the publication of the contract notice in OJEU 2007/S 158-196410 of 18/08/2007.

2. 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 08/10/2007 (the postmark or the receipt issued by the courier service serving as proof of the dispatch) to the following address:

By registered mail

European Commission
Directorate-General Energy and Transport
DM 28 - 0/110 - Archives
B-1049 Brussels
Belgium

By private courier

European Commission
Directorate-General Energy and Transport - DM 28 - 0/110
Avenue du Bourget, 1
B-1049 Brussels (Evere)
Belgium

- (b) **or delivered by hand**

Tenders must be delivered by hand at the **Central Mail of the European Commission** by 08/10/2007 **not later than 4 p.m.** (Brussels time), at the following address:

European Commission
Directorate-General Energy and Transport – DM 28 0/110
Avenue du Bourget, 1
B-1140 Brussels (Evere)
Belgium

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 17.00 Monday to Thursday, and from 8.00 to 16.00 on Fridays. 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>Call for tenders No. TREN/E1/146-2006 <u>not to be opened by the internal mail department</u> DM 28 0/110 – Archives</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 at 10.a.m./p.m. on 23/10/2007, at 28 Rue De Mot (Directorate-General Energy and Transport, mail department, ground floor, office 110 1040-Brussels).

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.
7. Validity period of the tender: 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.

Requests for additional information must be sent in writing not later than six calendar days before the closing date for submission of tenders to the following address:

Ms Teresa Marquez Neto
European Commission
DM 24- 02/50
B-1049 Brussels
Belgium

Fax (+ 32 2) 2952165
e-mail: Teresa.Marquez-Neto@ec.europa.eu

- 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 Energy and transport website (DG TREN) 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 TREN 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 TREN. 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 financial interest of the Communities, your personal data may be transferred to internal audit services, to the European 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.

Yours faithfully,

Enrico GRILLO PASQUARELLI
Director

TENDER SPECIFICATIONS
ATTACHED TO THE INVITATION TO TENDER

**Invitation to tender No. TREN/E1/146-2007 concerning
Guidelines to establish a European register of road transport undertakings**

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I. SPECIFICATIONS

I.1. Introduction

The Commission proposed on 23 May 2007 a legislative package composed of three regulations which modernise the existing rules on the admission to the occupation of road transport operators (Directive 96/26/CE); on the access to the road haulage market (Regulation (CEE) N°881/92 and Regulation CEE N°3198/93); and on the access to the market of road transport of passengers (Regulation (CEE) N°684/92 and Regulation (EC) N°12/98). The proposals are available on http://ec.europa.eu/transport/road/legislation/index_en.htm.

The proposals, among others, stipulate that each Member State will establish a national electronic register of road transport undertakings. The data to be included are specified in Article 15 of the proposal on the admission to the occupation. Article 15 also requires that the national registers of the 27 Member States will be interconnected by 31 December 2010 so that a licensing authority in one Member State can check certain data of, or send queries to, the national registers of the other Member States. In the meantime, the common rules concerning the format of the data exchanged, and the technical procedures for automatic consultation of the electronic registers of the other Member States, shall be established by the Commission.

The general aim is to make sure that the licensing authorities take into account serious and repeated infringements committed in other Member States when assessing the good repute of an undertaking. The licensing authorities need to check the good repute of an undertaking before issuing or renewing its licence which will give access to the occupation and to the market. They will also have to proceed with targeted checks based on the risk profile of the undertaking. In cases of very serious infringements, regardless of which Member State the infringement occurred the licensing authority will be obliged to impose one the following penalties: temporary or permanent withdrawal of licence; withdrawal of certified copies of licence; disqualification of the transport manager (the person who permanently and effectively has the responsibility to manage transport operations of an undertaking).

The electronic registers and their interconnection should allow a Member State, where a non resident haulier has committed a serious infringement, to notify the Member State, where the haulier is registered, give the relevant details of that infringement and possibly indicate the penalties imposed. They should also make it possible that a Member State authority, which delivers and renews a licence can carry out checks quickly (and in a reliable and secure way): i) the record of infringements committed by the operator on the territory of its own Member State; ii) a record of infringements committed on the territory of other Member States¹; iii) whether or not the person designated by an undertaking as being the transport manager has been disqualified in any other Member States; iv) inform a Member State which has notified a serious infringement committed on its territory whether penalties have been imposed, what they were and the rehabilitation measures.

¹ The main option envisaged is that only the infringements which have been notified by the Member State where they have been committed can be recorded in the national register of the Member State where the undertaking is established and has received its licence. This will ensure accessibility to the licensing authority of that latter Member State. For the purposes of the study, other options may however also be considered. For instance, the licensing authority, either directly or through a national contact point, may have access to infringement data recorded in the national register of another Member State.

The definition of infringements, their level of seriousness and the corresponding administrative penalties are not harmonised at Community level for the time being. The proposals, however, introduce a comitology mechanism by which serious infringement to Community road legislation will be gradually harmonised according to certain principles, as well as the level of seriousness which should trigger the withdrawal of licence or the disqualification of the transport managers in case of very serious infringement (Article 6(2) and Article 21(3) of the proposed regulation on admission to the occupation).

The infringement, which will be harmonised, relate to Community road transport legislation on driving time and rest periods; tachographs; weight and dimension; roadworthiness; speed limiters; training and licence of drivers; dangerous goods and admission to the occupation and access to the market. Harmonisation will concentrate on the most frequently encountered infringements, those which create a serious risk of fatalities or serious injuries, and those with a systematic and premeditated nature and linked to attempts to conceal facts and information.

The system should therefore allow for two types of information exchange: one automatic system that allows for an electronic interchange of data related to infringement and whose definitions and seriousness have been harmonised at Community level; and another system that allows for simple exchanges of information in case of infringements that are not harmonised at Community level.

The system should be designed so that:

- A gradual interconnection is operational from 31 December 2010. For this purpose different degrees of interconnection can be envisaged.
- The system can evolve in the longer term so that, at least for certain data to be defined, it becomes available on-line to the police and other enforcement agencies carrying out road side checks.
- It should also be designed to allow, at a later stage, the possible interconnection with database of vehicle registrations.

The main relevant legal provisions (currently being discussed in the European Parliament and the Council) are as follows:

Proposal for a regulation establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator ("admission to the occupation")

Article 15

For the purposes of implementing this Regulation, ... each Member State shall keep a national electronic register of road transport undertakings. The electronic register shall be accessible on line to all the competent authorities of the Member State in question, as referred to in Article 9...The national electronic register of a Member State shall contain the following data:

- (a) the name and legal form of the undertaking;*
- (b) the address of its establishment;*
- (c) the names of the transport managers designated to meet the conditions as to good repute and professional competence or, as appropriate, the name of the legal representative;*
- (d) the type of authorisation, the number of vehicles which it covers and, where appropriate, the serial number of the Community licence and that of the certified copies;*
- (e) the number, the category and the type of serious infringements and repeated minor infringements, as referred to in Article 6(1)(b), which have resulted in a sanction in the last two years;*
- (f) the names of any persons declared to be unfit to manage the transport activity of an undertaking in the last two years, and the rehabilitation measures applicable.*

...

Member States shall take all necessary measures to ensure that the national electronic registers are interconnected throughout the Community no later than 31 December 2010. Interconnection shall be implemented in such a way that a competent authority (licencing authority) in any Member State can consult the electronic registers of all the Member States.

For the purposes of paragraph 4, the common rules concerning the format of the data exchanged, concerning the technical procedures for automatic consultation of the electronic registers of the other Member States shall be adopted by the Commission in accordance with the consultation procedure referred to in Article 25(2).

Article 10 (4)

From the date of the interconnection of the national electronic registers referred in Article 15(4), a competent authority (licensing authority) shall verify, when assessing the good repute of an undertaking, that the transport manager(s) designated has not (have not) in the last two years been declared, in one of the Member States, unfit to manage the transport activity of an undertaking pursuant to Article 13.

Article 17

Where a Member State detects an infringement committed by an undertaking the authorisation of which has been issued by a competent authority in another Member State, and the seriousness of the infringement could result in the suspension or withdrawal of the authorisation, the Member State shall communicate to the other Member State all the information in its possession concerning the infringement and any sanctions which it has imposed.

....

Member States which exchange information concerning the infringements referred to in Article 6(2) or concerning any transport managers declared to be unfit shall comply with the procedure and time limits referred to in Article 12(1) of Regulation ... [access to the road haulage market] or, as appropriate, Article 23(1) of Regulation ... [access to the market of road transport of passengers]. A Member State which receives notification of an infringement from another Member State shall record that infringement in its national electronic register.

***Proposal for a regulation on common rules for access to the international road haulage market
("access to the market")²***

Article 12(1)

Where the competent authorities of a Member State are aware of serious infringement or of repeated minor infringements of this Regulation or of Community road transport legislation attributable to a non-resident haulier, the Member State within the territory of which the infringement is ascertained shall transmit to the competent authorities of the Member State of establishment as soon as possible, but at the latest within one month of receiving knowledge of the infringement, the following information:

- (a) a description of the infringement and date, time when it was committed;*
- (b) the category, type and seriousness of the infringement;*
- (c) the sanctions imposed and the sanctions executed.*

The competent authorities of the host Member State may request the competent authorities of the Member State of establishment to impose administrative sanctions in accordance with Article 11.

Article 11 (3)

...the competent authorities of the Member State of establishment shall decide whether a sanction shall be imposed on the haulier concerned. They shall communicate to the competent authorities of the Member State in which the infringements were ascertained as soon as possible, and at the latest within three months of receiving knowledge of the infringement, which of the sanctions provided for in paragraphs 1 and 2 of this Article have been imposed. If it has not been possible to impose such sanctions, they shall state the reasons.

² Similar provisions exist in the proposal for a regulation on common rules for access to the market of road transport of passengers

Article 13

Member States shall ensure that serious infringements or repeated minor infringements of Community road transport legislation committed by hauliers established in their territory.. (in) any Member State as well as the sanctions imposed are recorded in the national register of road transport undertakings as established under Article 15 of Regulation ...[admission to the occupation]. Those entries in the register which concern a temporary or permanent withdrawal of a Community licence shall remain in the database for at least two years.

The impact assessment carried out by the Commission services before the adoption of the above mentioned proposals, recommended the development of such a register by using the existing TACHOnet architecture in order to reduce the development and implementation cost. Tachonet is a telematics network which aims at facilitating the data exchange between national administrations responsible for the issuing of tachograph cards required for use with the digital tachograph as provided in Regulation (EEC) N° 3821/85 as amended by Regulation (EEC) N° 2135/98.

For the purposes of the present call for tenders, the set composed of the 27 national electronic registers, and the interconnection at Community level, is called the European Register of Road Transport Undertakings. The Commission envisages an implementation in four stages:

- 2008 : guidelines on user, legal, organisational, technical and economic requirements
- 2009-2010: developing and prototyping the interconnections between national register
- 2011-2012: first degree of interconnection covering an initial set of messages
- > 2013: second degree of interconnection covering a wider set of message

The programme may be adjusted once the European Parliament and the Council have adopted the above mentioned regulations. The present call for tenders only deals with the first stage.

I.2. Purpose of the contract

The general aim of the service contract is to produce guidelines to establish and operate a European Register of Road Transport Undertakings (ERRU) to support cross-border enforcement of the Community rules on the admission to the occupation and the access to the market of road transport, as proposed by the Commission to the European Parliament and Council on 23 May 2007.³

More specifically the objectives are:

- To provide Member States with guidelines to establish and operate national electronic registers, including minimum and common requirements to allow for subsequent low cost and easy interconnection with the other national registers.
- To provide the Commission services with a comprehensive report on how the interconnection between national electronic registers should work and how it can be gradually implemented.

I.3. Main tasks

The study is intended to achieve the above mentioned objectives by:

1. Analysing the existing national registers;

³ These guidelines may also be used for the purpose of implementing Article 8(2) of Directive 2006/22/EC which requires the Commission to define a common methodology to support the exchange of information between Member States on enforcement issues related to driving time and rest periods rules.

2. Collecting and analysing the user requirements of the European register of road transport undertakings;
3. Identifying the legal requirements, notably in terms of data protection;
4. Assessing various possible organisational arrangements;
5. Assessing available technical options;
6. Estimating the costs and benefits and how to maximise the return of the system;
7. Recommending a road map, including common, minimum requirements to implement the system, for both the Member States and the Commission.

The work will require intense consultation (including face-to-face interviews) with Member State authorities, European associations of enforcement agencies and regular contacts with the Commission services (both Unit E1 on Land Transport Policy and the Informatic cell). It may also require the participation in meetings with a committee of Member States representatives. It requires a deep knowledge of the national policies to deliver and renew road transport licences, of current national infringement and penalties system applicable to professional road transport, and of the legal and technical aspects of data interchanges between public administrations.

I.4. Expected results

The following results are expected from the study:

- **R1: A detailed overview of the existing national registers** which match the requirements of the proposal for admission to the occupation. The overview will describe the objectives, functions, users, data, technical characteristics and cost of these national registers;
- **R2: A detailed overview and analysis of the needs of the users** of the interconnected registers. The analysis shall identify at least each type of data to be interchanged between different Member States, the type of actions from one Member State to another (notification, acknowledgement of receipt, queries, etc)⁴ and the possible evolution of future needs.

Attention of the tenderer is drawn to the fact that for the purpose of identifying the data to be interchanged, the analysis shall develop a generic classification of infringements to Community road legislation per category, type and seriousness using the principles proposed in Article 6(2) of the proposed Regulation on the admission to the occupation; it therefore shall cover at least:

- the most frequent infringements, the infringements with serious risks of fatalities or serious injuries, or the infringements with a systematic and premeditated nature and linked to attempts to conceal facts and information; and,
- in areas related to driving time and tachographs⁵; weight and dimension; roadworthiness; speed limiters; training and licence of drivers; dangerous goods and admission to the occupation and access to the market

⁴ For example: "Member State A sends a query to Member State B to know whether transport manager X has been disqualified or not"; "Member State C identifies a serious infringement committed by haulier Y registered in Member State D. Member State C then asks that Member State D records in its own national register that serious infringement"; "Member State D informs Member State C whether it has imposed a penalty on Y, and what it was"

⁵ In this context, the classification will take into account the Declaration of the Commission attached to Directive 2006/22/EC Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Drivers Time Rules (see *OJ L 102, 11.4.2006, p. 44*). The classification shall also take into account initial working documents produced by Euro-Control Route in view of implementing this Declaration.

- **R3: An identification of the legal requirements** to implement, interconnect, operate and maintain the national electronic registers. A particular emphasis shall be put on the requirements to comply with existing rules on the protection of individuals with regards to the processing of personal data and on the free movement of such data (in particular Directive 95/46/EC)⁶. The assessment should determine, among other things, how national supervisory authorities can ensure full compliance with data protection issues; which bodies can have access to which data and under what circumstances and; how to ensure that the data are strictly handled within all other rules governing data access, security control and, more generally, the data protection rules;
- **R4: An assessment of the various possible organisational arrangements** to implement, interconnect, maintain and operate the national registers. The report should indicate the ideal sharing of responsibilities between the Member States and the Commission. It should provide guidelines to Member States on options for the required bodies within each Member States and their functions (e.g. supervision, central or decentralised update of data, contact points for other Member States, etc). The assessment should take into account the decentralised nature of the licensing authorities in most of the Member States. Each option shall explain who typically could be responsible for updating the data, which body could host and maintain the interconnection and which bodies could have access to the registers of other Member States. It shall identify the training requirements and the possible future evolution;
- **R5: An assessment of the technical options available.** The chosen options should be cost-effective and preferably based on the TESTA II network. One preferred option will be to extend the current TACHOnet architecture⁷ (see supra). No more than three candidate system architectures shall be assessed in terms of: functionality, reliability, availability, performance, scalability, security, manageability and cost/benefits. In addition, the report shall describe the infrastructure and software available on the market as regards structuring of data, message, work flow management, interfaces with existing national registers. It shall specify the types of messages, their number, their length and the frequency of exchange and all other criteria decisive on the choice of the recommended architecture. It shall then establish the performance requirements and design specifications.

The assessment of candidate system architectures could be based on the following approach, but the tenderer could propose other methods more elaborated:

- The benefits of the recommended system architecture will be axed to the services, capabilities and qualities provided. The benefits will be identified for all the Member States and for the European Commission. The aim is to develop and provide a reliable, robust and user-friendly application tool which will be tailored to the needs of the competent authorities' clerks who will use it on a daily basis.
- Performance measures will be established for each intangible benefit axed to a rating system. Each benefit shall be evaluated for each of the proposed solutions and every weighted score shall comprehensively be justified by providing solid, credible and relevant

⁶ OJ L281, 23.11.1995, p.31

⁷ Further technical documentation about TACHOnet can be obtained by contacting Mrs Teresa Marquez Neto. Before getting this information, the tenderer sill have to sign a document of confidentiality aiming at ensuring that he/she complies with the security and confidentiality rules laid down in EC Regulation N° 45/2001 with regard to the processing of personal data and use of confidential documents.

arguments reflecting at most the recommended solution to be deployed in the context of this project. The following nomenclature could be used, although not compulsory.

Type of system architecture model (centralised, decentralised, hybrid)	
1. Functionality	/20
2. Reliability	/50
3. Availability	/40
4. Performance	/50
5. Scalability	/40
6. Security	/30
7. Manageability	/40
Total	/270

- The value of the benefits of each alternative shall be estimated and weighted against the costs for initial development and exploitation. The Total Costs of Ownership (TCO) have therefore to be estimated. Sensitivity analysis must be performed in order to test all the input parameters and the reliability of the assessment results.
- **R6: A refined estimate of the global costs and benefits** of implementing the national registers and of interconnecting them. A first rough estimate of the costs and benefits is provided in SEC (2007) 635 (see chapter 5.8 "Monitoring of reputé")⁸. The costs will include the cost of training, equipment and operations. The benefits will include the savings of time for instructing licence requests, the reduced costs of enforcement and in general the reduction of administrative burdens for both undertakings and administrations (licencing and enforcement agencies). The estimate will distinguish between those Member States who have already a national register and those that don't. The study will also recommend how to minimize the costs and maximise the benefits in the short and long term;
- **R7: Final recommendations.** They shall include all recommendations that the tenderer deems necessary for the purpose of implementing ERRU before 31 December 2010 and shall include at least:
 - Guidelines targeting Member States for establishing, maintaining and operating national electronic registers, and for installing the interfaces required to allow a full interconnection with the other national registers.
 - Common rules concerning the format of data to be exchanged and the technical procedures for the consultation of the electronic registres in other Member States, which could subsequently be endorsed by the Commission and Member State experts as planned in Article 15(2) of the proposed Regulation related to the occupation of road transport operator.
 - A road map to be implemented by the Commission services until such time as there is the full interconnection between national registers. The road map shall be precise enough so that a first prototype which interconnects existing national registers can start immediatly after the study and therefore include the design specifications of the prototype. It shall include a detailed calendar, a list of tasks, a list of required staff and budget resources and organisational arrangements (eg user groups with Member States users, business continuity, etc.).

⁸ Commission staff paper, impact assessment accompnaying the above mentioned legislative proposals (see http://ec.europa.eu/transport/road/legislation/index_en.htm)

I.5. Reports and documents to produce - Timetable to observe

Execution of the tasks begins after the date on which the Contract enters into force.

A **kick-off meeting** will take place in Brussels, at the latest 10 days following the signature of the contract, in order to settle all the details of the study, report, etc... to be undertaken. Meetings will then be held with the Commission services every two months to review progress.

A first **interim report** showing progress of the work shall be submitted to the Commission at the latest four months after the date of signature of the contract. The report will provide results for objectives 1, 2 and 3 and progress in completing objectives 4 and 5. The Commission shall have forty-five days from receipt to approve or reject the report. Within 20 days of receiving the Commission's observations, the Contractor will submit additional information or another report.

A **second interim report** showing progress of the work shall be submitted to the Commission at the latest eight months after the date of signature of the contract. The report will provide results for objectives 1, 2, 3, 4, 5 and progress in completing the objectives 6 and 7. The Commission shall have forty-five days from receipt to approve or reject the report. Within 20 days of receiving the Commission's observations, the Contractor will submit additional information or another report.

The contractor will submit a **draft final report** to the Commission at the latest ten months after the signature of the contract. The draft will include the results for all the objectives. Within 45 days after the submission of this draft final report the Commission will provide the contractor with its comments on the draft final report and the date of a last meeting in (Brussels) will be agreed in order to discuss the Commission's observations. After this meeting, the Contractor shall have 20 days in which to submit additional information or a new final report.

I.5.1. Report format and publication

Five copies of the reports shall be supplied in paper form and one copy in electronic form, either in MS Word or in HTML format.

The Commission may publish the results of the study. For this purpose, the tenderer must ensure that the study is not subject to any restrictions deriving from intellectual property rights of third parties. Should he intend to use data in the study, which cannot be published, this must be explicitly mentioned in the offer.

I.6. Duration of the tasks

The duration of the tasks shall not exceed **12 (twelve) months**. This period is calculated in calendar days.

I.7. Place of performance

The tasks will be performed on the Contractor's premises. However, meetings between the contractor and the Commission may be held on Commission premises in Brussels.

I.8. Estimate of the amount of work involved

The total value of the contract has been estimated at 400 man-days.

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 5). 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 5, the draft service contract

II.2. Financial guarantees

Guarantee on pre-financing

For any pre-financing higher than 100,000 EUR, a financial guarantee equivalent to the amount of the pre-financing will be requested.

Depending on the financial situation of the tenderer, the Commission may ask for the financial guarantee for amounts lower than 100,000 EUR.

II.3. Subcontracting

If the tenderer intends to subcontract part of the service, he shall indicate in his offer which part will be subcontracted and to what extent (% of the total contract value).

Tenderers must ensure that Article II.17 of the contract (Annex 5) can be applied to subcontractors. Once the contract has been signed, Article II.13 of the above-mentioned contract shall govern the subcontracting.

II.4. Legal form to be taken by the grouping of service 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 or 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 (in their entirety) 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 1, 2 and 3):

- Tenderers' identification (Annex 1)
 - 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 (including subcontractor(s) or any member of a consortium or grouping) must complete and sign the identification forms in Annex 1 and also provide above-mentioned documents. However, the subcontractor(s) shall not be required to fill in or provide those documents when the services represent less than 20% of the contract.

- Financial identification (Annex 2)

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 2 and a specific form for each Member State is available at the following Internet address:

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.

- Legal entities (Annex 3)

The legal entity form in Annex 3 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

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.

Some guidelines are given below, but attention is also drawn to the award criteria, which define those parts of the technical proposal to which the tenderers should pay particular attention. The technical proposal should address all matters laid down in the specifications and should include models, examples and technical solutions to problems raised in the specifications. The level of detail of the tender will be extremely important for the evaluation of the tender.

Tenderers must present in their bids a proposal on the methodology and the organisation of the work to carry out in the framework of the study including the consultations in order to collect information and validate the final recommendations. They shall provide assurance that the analysis shall be valid and credible and shall provide relevant information with a high level of expertise in line with the nature of this contract. Its recommendations and/or proposals shall be based on solid, valuable and reliable arguments defining objective and concrete results directly applicable in the framework of this project, allowing the European Commission to have a good visibility and understanding on the future potential and provisional implementation of the ERRU system

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

- 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.
- Estimated travel and daily subsistence allowance expenses must be indicated separately. The estimate should be based on Article I.3 and II.7 of the draft contract. This estimate will comprise all foreseen travel and will constitute the maximum amount of travel and daily subsistence allowance expenses to be paid for all tasks.

- **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 shall be fixed** and not subject to revision during the performance of the contract;
- For each category of staff involved in the project, the tenderer must specify:
 - the total labour costs;
 - **the daily rates** and **total number of days** (man/days) each member of staff will contribute to the project;
 - other categories of costs, indicating the nature of the cost, the total amount, the unit price and the quantity.

Bids involving more than one service 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 Regulation⁹)

1. To be eligible for participating in this contract award procedure, tenderers must not be in any of the following situations:

- (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 Regulation¹⁰ for being guilty of misrepresentation in supplying the

⁹ 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)

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. 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);
 - 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 procurement 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.

¹⁰ Council Regulation (EC, Euratom) n° 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.

IV.1.3. Evidence to be provided by the tenderers

1. When submitting their bids, each tenderer (including subcontractor(s) or any member of a consortium or grouping) 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 4. 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. When the subcontracted part is above 20% of the contract value, the subcontractor(s) must also provide the above-mentioned declaration on honour. In case of doubt on this declaration on the honour, the contracting authority may also request the evidence referred to in paragraphs 2 and 3 above..
5. 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 Transport 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.¹¹

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

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

This rule applies to all service providers, regardless of the percentage of tasks they intend to execute, once they have chosen to submit a tender. However, if the tender includes subcontractors whose tasks represent less than 20% of the contract, those subcontractors are not obliged to provide evidence of their economic and financial capacity.

IV.2.2. Technical and professional capacity – References required

Tenderers must provide evidence of their qualification with at least a minimum of 5 years relevant experience in implementing and enforcing Community road transport legislation and demonstrate a good grasp of the technical and legal requirements associated with the exchange of enforcement data between Member States.

The evidence shall comprise a description of

- 1) Educational qualifications and working experience (number of years)
- 2) Measures that the tenderers will take to guarantee the good execution of the tasks, i.e. proof of the existence of an access to national policies on infringement or the capacity to obtain this access should the contract be awarded to them.
- 3) List of the main services and tasks delivered during the last five years as well as related amounts, dates and beneficiaries with mention of the sector they belong to (private/public) ;
- 4) Part of the contract which the service provider intends to subcontract;

¹¹ 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.

If several service providers/subcontractors are involved in the bid, each of them must have and show that they have the professional and technical capacity to perform the tasks assigned to them.

Tenderers should provide with their offer detailed curriculum vitae of each staff member responsible for carrying out the work, including his or her educational background, degrees and diplomas, professional experience, research work, publications and linguistic skills.

The CV's shall be presented, preferably, in accordance to the Commission Recommendation on a common European format for curricula vitae, published in OJ L79 of 22 March 2002, p. 66.

IV.3. EVALUATION OF TENDERS – AWARD CRITERIA

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 will be taken into consideration for awarding the contract.

a) Technical evaluation criteria in their order of importance as weighted by percentage

N°	Award Criteria	Weighting
1	Proposed methodology: The tenders must include detailed proposals on the methodological approach of the work to be undertaken and on the work programme. The criterium covers project management, quality control of deliverables and contingency plans. It will be assessed according to the overall quality, clarity, completeness, consistency and practicability.	35%
2	Composition of the study team and distribution of work and quality management: The general composition of the study team will be evaluated with account taken of the work within the study team; proven availability of the members of the study team and capacity to perform in accordance with a strict timetable. It will also be evaluated whether the quality assurance measures proposed in the tender are adequate.	35%
3	Understanding of the background, the objectives, the tasks and the expected results in the terms of reference and succinct description of this understanding	30%
Total number of points		100

b) Total price

The contract will be awarded to the tender which offers the best ratio quality/cost.

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.

Upon written request, the Commission will inform the rejected tenderers of the reasons for their rejection and the tenderers having submitted 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. Identification of the Tenderer
2. Financial Identification
3. Legal Entity Form
4. Declaration by the Tenderer (relating to the exclusion criteria)
5. Draft Service Contract

ANNEX 1

IDENTIFICATION OF THE TENDERER

(Each service provider , including subcontractor(s) or any member of a consortium or grouping, must complete and sign this identification form)

Call for tender TREN E1/146-2007

Identity	
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) ¹²	
Address	
Address of registered office of tenderer	
Where appropriate, administrative address of tenderer for the purposes of this invitation to tender	
Contact Person	
Surname: First name: Title (e.g. Dr, Mr, Ms) : Position (e.g. manager): Telephone number: Fax number: E-mail address:	

¹² For natural persons

Legal Representatives	
Names and function of legal representatives and of other representatives of the tenderer who are authorised to sign contracts with third parties	
Declaration by an authorised representative of the organisation¹³ I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	
Surname: First name:	Signature:

¹³ This person must be included in the list of legal representatives; otherwise the signature on the tender will be invalidated.

ANNEX 2

(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

FINANCIAL IDENTIFICATION

<u>ACCOUNT HOLDER</u>	
NAME	<input type="text"/>
ADDRESS	<input type="text"/>
TOWN/CITY	<input type="text"/>
POSTCODE	<input type="text"/>
COUNTRY	<input type="text"/>
VAT NUMBER	<input type="text"/>
CONTACT PERSON	<input type="text"/>
TELEPHONE	<input type="text"/>
FAX	<input type="text"/>
E - MAIL	<input type="text"/>

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

REMARKS :

BANK STAMP + SIGNATURE of BANK REPRESENTATIVE (Both Obligatory)

DATE + SIGNATURE of ACCOUNT HOLDER : (Obligatory)

ANNEX 3

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/execution/legal_entities_en.htm

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 4

DECLARATION BY THE TENDERER

Each service provider, including subcontractor(s) or any member of a consortium or grouping, must sign this declaration

1. In accordance with Article 93 of the Financial Regulation¹⁴, 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 Communities' 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 Community 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.

¹⁴ Council Regulation (EC, Euratom) n° 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.

Done at on.....

Name

Title

Signature:

ANNEX 5



EUROPEAN COMMISSION
DG
Directorate
Unit

DRAFT SERVICE CONTRACT

CONTRACT NUMBER – []

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

of the one part,

and

[official name in full]

[*official legal form* (Delete if contractor is a natural person or a body governed by public law.)]

[*statutory registration number* Delete if contractor is a body governed by public law. For natural persons, indicate the number of their identity card or, failing that, of their passport or equivalent]

[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 [] of []) and Monitoring

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

Annex III - Daily allowances

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 provide the Commission services guidelines to establish a European register of road transport undertakings.
- I.1.2.** The Contractor shall execute the tasks assigned to him in accordance with the Tender Specifications annexed to the Contract (Annex I).

ARTICLE I.2 - DURATION

- I.2.1.** The Contract shall enter into force on the date on which it is signed by the last contracting party.
- I.2.2.** Execution of the tasks may under no circumstances begin before the date on which the Contract enters into force.
- I.2.3.** The duration of the tasks shall not exceed 12 (twelve) months. This period and all other periods specified in the Contract are calculated in calendar days. Execution of the tasks shall start from the date of entry into force of the Contract. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.

ARTICLE I.3 – CONTRACT PRICE

- I.3.1.** The maximum total amount to be paid by the Commission under the Contract shall be EUR [] covering all tasks executed.
- I.3.2.** In addition to the total amount specified in Article I.3.1, travel, subsistence and shipment expenses shall be reimbursed in accordance with Article II.7, as shall other expenses provided for by the Tender Specifications up to a maximum amount of EUR [amount in figures and in words]. The daily subsistence allowance referred to in Article II.7.4(d) shall be determined in accordance with Annex III.

ARTICLE I.4 – PAYMENT PERIODS AND FORMALITIES

Payments under the Contract shall be made in accordance with Article II.4. 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 periods have not been executed as a result of default or negligence on the part of the Contractor.

I.4.1. Pre-financing:

Following signature of the Contract by the last contracting party, within 30 days of the receipt by the Commission of a duly constituted financial guarantee equal to at least EUR [] a pre-

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

I.4.2 Interim payment:

Requests for interim payment by the Contractor shall be admissible if accompanied by

- the second interim technical report in accordance with the instructions laid down in Annex I.
- the relevant invoice(s)
- statements of reimbursable expenses in accordance with Article II.7

provided the report has been approved by the Commission.

The Commission shall have forty-five days from receipt to approve or reject the report, and the Contractor shall have 20 days in which to submit additional information or a new report.

Within 30 days [of the date on which the report is approved by the Commission,] an interim payment corresponding to [] equal to 40 % of the total amount referred to in Article I.3.1 shall be made.

I.4.3. Payment of the balance:

The request for payment of the balance of the Contractor shall be admissible if accompanied by

- the final technical report in accordance with the instructions laid down in Annex I
- the relevant invoices
- statements of reimbursable expenses in accordance with Article II.7

provided the report has been approved by the Commission.

The Commission shall have forty-five days from receipt to approve or reject the report, and the Contractor shall have 20 days in which to submit additional information or a new report.

Within 30 days of the date on which the report is approved by the Commission, payment of the balance corresponding to EUR [] equal to 30 % of the total amount referred to in Article I.3.1 shall be made.

For Contractors established in Belgium, the provisions of the Contract constitute a request for VAT exemption No 450, provided the Contractor includes 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.

For Contractors established in Italy, the provisions of the Contract constitute a request for VAT exemption, provided the Contractor includes the following statement in his invoice(s): “Operazione non imponibile ai sensi dell’articolo 72, comma 3) paragrafo 3 del D.P.R. n. 633 del 26/10/1972 come modificato da ultimo dal D.L. n. 323 del 20/06/1996 convertito in Legge n. 425 dell’8/8/1996”.

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 number. 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 and transports
Directorate E
Unit E1
B-1049 Bruxelles

Contractor:

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

ARTICLE I.7– APPLICABLE LAW AND SETTLEMENT OF DISPUTES

I.7.1. The Contract shall be governed by Community law complemented, where necessary, by the national substantive law of Belgium.

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

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 TREN without prejudice to possible transmission to internal audit services, to the European 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. 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 TREN. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

ARTICLE I.9 – TERMINATION BY EITHER CONTRACTING PARTY

Either contracting party may, of its own volition and without being required to pay compensation, terminate the Contract by serving 2 months formal prior notice. Should the Commission terminate the Contract, the Contractor shall only be entitled to payment corresponding to part-performance of the Contract. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

[ARTICLE I.10 – OTHER SPECIAL CONDITIONS

II – GENERAL CONDITIONS

ARTICLE II.1 – PERFORMANCE OF THE CONTRACT

- II.1.1.** The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.
- II.1.2.** The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.
- II.1.3.** Without prejudice to Article II.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.
- II.1.4.** The Contractor must ensure that any staff performing the Contract have the professional qualifications and experience required for the execution of the tasks assigned to him.
- II.1.5.** The Contractor shall neither represent the Commission nor behave in any way that would give such an impression. The Contractor shall inform third parties that he does not belong to the European public service.
- II.1.6.** The Contractor shall have sole responsibility for the staff who execute the tasks assigned to him.

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

- staff executing the tasks assigned to the Contractor may not be given orders direct by the Commission;
 - the Commission may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Commission any right arising from the contractual relationship between the Commission and the Contractor.
- II.1.7.** 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 tasks assigned to him resulting from the replacement of staff in accordance with this Article.
- II.1.8.** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the Commission. The report shall include a description of the problem and an indication of the date on which it started 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.

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

ARTICLE II.2 – LIABILITY

II.2.1. The Commission shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of 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.13. The Commission shall not be liable for any act or default on the part of the Contractor in performance of the Contract.

II.2.3. The Contractor shall 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 by the Contractor 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 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 additional measures to 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 interests. Without prejudice to Article II.1 the Contractor shall replace, immediately and without compensation from the Commission, any member of his staff exposed to such a situation.

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

II.3.3. The Contractor declares:

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

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

ARTICLE II.4 – PAYMENTS

II.4.1. Pre-financing :

Where required by Article I.4.1, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by 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 work on his part.

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

The guarantee shall specify that it enters into force 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 work. The guarantee shall be retained until the pre-financing has been deducted from interim payments or payment of the balance to the Contractor. It shall be released the following month. The cost of providing such guarantee shall be borne by the Contractor.

II.4.2. Interim payment:

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

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

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.

II.4.3. Payment of the balance:

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

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

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 and 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.5 – GENERAL PROVISIONS CONCERNING PAYMENTS

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

II.5.2. The 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 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.5.3. In the event of late payment the Contractor shall be entitled to claim interest, provided the calculated interest exceeds EUR 200. However, in the event of payment due before 1st January 2008, the Contractor may claim interest only within two months of receiving the payment. 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.6 – RECOVERY

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

II.6.2. In the event of failure to pay by the deadline specified in the request for reimbursement, the sum due shall bear interest at the rate indicated in Article II.5.3. Interest shall be payable from the calendar day following the due date up to the calendar day on which the debt is repaid in full.

II.6.3. 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 Communities that is certain, of a fixed amount and due. The Commission may also claim against the guarantee, where provided for.

ARTICLE II.7 - REIMBURSEMENTS

II.7.1. Where provided by the Special Conditions or by Annex I, the Commission shall reimburse the expenses which are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets.

II.7.2. Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.

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

- a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
- b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
- c) travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;

d) travel outside Community territory shall be reimbursed under the general conditions stated above provided the Commission has given its prior written agreement.

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

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

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

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

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

ARTICLE II.9 – CONFIDENTIALITY

II.9.1. The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.

II.9.2. The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

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

II.10.1. The Contractor shall authorise the Commission to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article I.8 shall apply.

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

ARTICLE II. 11 – TAXATION

- II.11.1.** The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.
- II.11.2.** The Contractor recognises that the Commission is, as a rule, exempt from all taxes and 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 Communities.
- II.11.3.** The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.
- II.11.4.** 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.12 – FORCE MAJEURE

- II.12.1.** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making 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.12.2.** Without prejudice to the provisions of Article II.1.8, 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.12.3.** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to

perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.

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

ARTICLE II.13 – SUBCONTRACTING

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

II.13.2. Even where the Commission authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Commission under the Contract and shall bear exclusive liability for proper performance of the Contract.

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

ARTICLE II.14 – ASSIGNMENT

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

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

ARTICLE II.15 – TERMINATION BY THE COMMISSION

II.15.1. 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 been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;
- (c) where the Contractor has been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) 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;
- (e) where the Commission seriously suspects the Contractor of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;

- (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 execution of the tasks has not actually commenced within three months¹⁵ of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Commission;
- (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- (k) 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.15.2. In case of force majeure, notified in accordance with Article II.12, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period laid down in Article I.2.3.

II.15.3. Prior to termination under point e), h) or k), 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.15.4. 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 tasks executed 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 complete the services. The Commission shall be entitled to claim from the Contractor all extra costs incurred in making good and completing the services, without prejudice to any other rights or guarantees it has under the Contract.

ARTICLE II.16 – 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 specified in Article I.3.1 per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal 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.17 – CHECKS AND AUDITS

- II.17.1.** Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the European Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the European Communities from signature of the Contract up to five years after payment of the balance.
- II.17.2.** The Commission or an outside body of its choice shall have the same rights as the European 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.
- II.17.3.** 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 (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance.

ARTICLE II.18 – AMENDMENTS

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

ARTICLE II.19 – 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 execution of the tasks under the Contract 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 the work suspended. 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 [Brussels], [date]

Done at [Brussels], [date]

In duplicate in English.

ANNEX I

Tender Specifications

ANNEX II

Contractor's Tender

ANNEX III

Daily allowances for the Member States of the European Union

DESTINATION		Indemnité Journalière en EUR	Plafond des frais d'hébergement (hôtel) en EUR
FR	EN	Daily allowance in EUR	Maximum hotel price in EUR
Allemagne	Germany	93	115
Autriche	Austria	95	130
Belgique	Belgium	92	140
Bulgarie	Bulgaria	58	169
Chypre	Cyprus	93	145
Danemark	Denmark	120	150
Espagne	Spain	87	125
Estonie	Estonia	71	110
Finlande	Finland	104	140
France	France	95	150
Grèce	Greece	82	140
Hongrie	Hungary	72	150
Irlande	Ireland	104	150
Italie	Italy	95	135
Lettonie	Latvia	66	145
Lituanie	Lithuania	68	115
Luxembourg	Luxembourg	92	145
Malte	Malta	90	115
Pays-Bas	Netherlands	93	170
Pologne	Poland	72	145
Portugal	Portugal	84	120
République tchèque	Czech Republic	75	155
Roumanie	Romania	52	170
Royaume-Uni	United Kingdom	101	175
Slovaquie	Slovakia	80	125
Slovénie	Slovenia	70	110
Suède	Sweden	97	160

Indemnités journalières pour les Etats hors de l'Union européenne (en Euro)

Calcul

Le calcul des **Indemnités journalières (I J)** se fait selon les règles suivantes:

Durée du déplacement:

- inférieure ou égale à 6 heures: frais réels (sur présentation des pièces justificatives).
- plus de 6 heures à 12 heures inclus: 0,5 I J.
- plus de 12 heures à 24 heures inclus: 1 I J.
- plus de 24 heures à 36 heures inclus: 1,5 I J.
- plus de 36 heures à 48 heures inclus: 2 I J.
- plus de 48 heures à 60 heures inclus: 2,5 I J, etc....

Calculation

Daily subsistence allowances are to be calculated as follows:

Length of mission:

- six hours or less: reimbursement of actual expenses (on production of supporting documents);
- more than six hours but not more than twelve hours: half the daily allowance;
- more than twelve hours, but not more than twenty-four hours: the daily allowance;
- more than twenty-four hours but not more than thirty-six hours: one and a half times the daily allowance;
- more than thirty-six hours but not more than forty-eight hours: twice the daily allowance;
- more than forty-eight hours but not more than sixty hours: two and a half times the daily allowance, and so on.