



EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENERGY AND TRANSPORT

Brussels,

INVITATION TO TENDER No. TREN/F1/289-2009

(open procedure)

Dear Sir/Madam,

1. The European Commission invites tenders for a service contract regarding the following project:

Framework contract to provide support for the further development of EU air transport policy in relations with third countries and within the internal air transport market.

This invitation to tender follows the publication of:

- the contract notice in OJEU S 72-103625 of 15/04/2009

The contract is based on the system of a **Multiple Framework Contract with reopened competition**. Therefore, the Framework Contract will be concluded with each selected contractor, up to a maximum of three contractors, setting out the general contractual terms (legal, financial, technical, administrative, etc.) that apply during their period of validity and govern commercial relations between the Commission and the contractors.

2. If you are interested in this contract, you must submit a tender in **one (1) original and three (3) copies**, 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 02/06/2009 (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 de Bourget, 1
B-1140 Brussels (Evere)
Belgium

(b) or delivered by hand

Tenders must be delivered by hand at the **Central Mail of the European Commission** by 02/06/2009 **not later than 4 p.m.** (Brussels time), at the following address:

European Commission
Directorate-General Energy and Transport – DM 28 0/110
Avenue de 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:**

Call for tenders No. TREN/F1/289-2009
not to be opened by the internal mail department
DM 28 0/110 – Archives

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 10:00.a.m. on 10/06/2009 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:

Mr Reijo Puumalainen
European Commission
DM 24 5/106
B-1049 Brussels
Belgium

Fax (+ 32 2) 2960658
e-mail: tren-air-annual@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,

Daniel CALLEJA CRESPO
Director

TENDER SPECIFICATIONS
ATTACHED TO THE INVITATION TO TENDER

Invitation to tender No. TREN/F1/289-2009 concerning
*Framework contract to provide support for the further development of EU air
transport policy in relations with third countries and within the internal air
transport market.*

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I. SPECIFICATIONS

I.1. Introduction

The so-called “open skies” judgements of 5 November 2002 of the Court of Justice of the European Communities (Cases C-466/98, C-467/98, C-468/98, C-469/98, C-471/98, C-472/98, C-475/98, C-476/98), marked the start of a Community (EC) external aviation policy. From a legal viewpoint, the “open skies” judgements mean that Member States cannot act in isolation when negotiating international air service agreements; henceforth these services will need to be treated as a subject of common interest in an overall EC context.

To that end, the Council Conclusions of June 2005 on the development of the Community’s external aviation policy established the roadmap and the main guiding principles for the Community’s external aviation policy¹, which consists of **three pillars**:

- Bringing the bilateral air services agreements into **conformity with Community law**.
- Building a Common Aviation Area with the **neighbouring countries** by 2010.
- Entering into ambitious negotiations with **key partners**, based on a case-by-case assessment of the added value of Community negotiations.

From an economic and political point of view, the introduction of an external aviation policy is underpinned by a desire on the part of the EC to move towards greater flexibility and openness in the area of international civil aviation reform, based on both bilateral and multilateral actions. More specifically, this involves taking steps to ensure that agreements are not only developed between Member States and third countries but wherever appropriate between the EC and those countries, on the basis of creating new economic opportunities, such as promoting investment and produce positive effects not only for the users of air transport, but also for the operators and other stakeholders.

The Regulation 1008/2008 on common rules for the operation of air services in the Community ("the Air Service Regulation") replaced the "Third Package" (Regulations 2407/92, 2408/92 and 2409/92) as of 1 November 2008. Simplifying and updating the text of the Third Package, the Air Service Regulation now provides the economic framework for air transport in the European Community setting out the rules on the grant and oversight of operating licences of Community air carriers, market access, aircraft registration and leasing, public service obligations, traffic distribution between airports and pricing.

Against this background, the European Commission is planning to conclude a new multiple framework contract with reopening of competition relating to the provision of analyses of the legal and socio-economic aspects of the development of the EU’s bilateral and multi-lateral relations with third countries in the air transport sector, including inter alia regulatory and technical cooperation with third countries in the areas of safety, security, air traffic management or competition policy as well as the opening up of current aeropolitical restrictions in bilateral air service agreements. In addition provision of analysis on the developments within the internal market is included. The current framework contract has included studies such as: "The economic benefits of a Euro-Mediterranean Aviation Agreement between the EU and Tunisia", "International aviation policy and competitiveness of the EU air transport industry", "The economic benefits of further opening of the aviation

¹ Based on the Commission’s Communication “Developing the agenda for the Community’s external aviation policy”, COM(2005)79.

markets between the EU and the Swiss Federation", "Consumer Protection Against Aviation Bankruptcy" and "The impact of the air transport market on employment and working conditions".

I.2. Purpose of the contract

The European Commission is launching an invitation to tender for services with a view to concluding a multiple framework contract with reopening of competition valid for a period of one year from the date of signature of the contract and renewable for two further periods of one year.

The services may take the following forms:

(a) Assistance in the legal field

- Analysis of existing bilateral arrangements between EU Member States and relevant third country(ies).
- Analysis of current market access rules in relevant third country(ies): slot allocation/traffic rights; ownership and control (with particular reference to foreign ownership); anti-trust and competition rules/state aids; licensing and the charter market where national policies vary significantly.
- Analysis of other potential regulatory barriers in relevant third country(ies) (safety, security, environmental, ground-handling, leasing, customs, duties, charges/taxes).
- Analysis of the level of harmonisation between economic and social legislation (in the aviation sector) of third countries with Community law.
- Assessment of the regulatory and aero-political impacts of liberalising agreements between relevant third country(ies) and the EC and assessing the possibilities for achieving a higher degree of regulatory convergence (e.g. safety, security, environment, competition).
- Provide advice on the proper implementation of Community acts.

(b) Assistance in the socio-economic field

- Economic analysis of specific international air transport markets (domestic and international traffic, including charter), level of competition, market shares, growth potential, leasing, labour conditions and costs, taxation, airport capacity, also for cargo.
- Identification and qualitative and quantitative analysis of the potential economic, social and environmental (eg. greenhouse gas emissions, climate change, noise) impacts of liberalising agreements in terms of opening up existing restrictions on traffic rights and on ownership and control requirements between relevant third country(ies) and the EC (e.g. impact on air traffic, level of service, prices, labour relations, operators such as airlines and airports as well as on European consumers).
- Assessment of the aeropolitical implications of air services agreements with third countries taking into account, inter alia, the expected effect of the proposed agreement considering factors such as possible consolidation, impact on investment and labour market, convergence of regulatory approaches, and the implications for wider trade policy.
- Assessment of risks and opportunities for the EU air transport industry with a potential agreement (SWOT analysis), examining threats and opportunities for EC carriers, as well as the potential impacts of no further opening between EU and the third country, by modelling scenarios for the various strategies to be chosen by the EU towards a third country.

- Analysis of the benefits and merits for EU and third countries' industry cooperation with identification of key future opportunities and impediments/restrictions, such as cooperation in the aerospace industry or in developing new technology for providing ATC services.
- Assistance in the social field (e.g. working time, recognition of qualifications, immigration requirements)
- Advise on effective measures to address distortions of competition by government subsidies and support in 3rd countries
- Analysis of the developments in aviation within the EU, including the effects of liberalisation, the social dimension, the passenger rights or any other subject which has an incidence on the air transport single market
- Statistical data² to support findings using various data such as fares (for example IATA Fare Tracker), schedules (OAG) and traffic flows by origin and destination (O&D from MIDT).

The precise object of the assessments and analyses required by the Commission, including the relevant third country(ies) concerned, will depend on the negotiations to be conducted by the Community and the specific needs of the Commission. In addition to the specific tasks outlined above, the contractor(s) will be required to prepare documents setting out and summarising economic and political analysis for the purposes of the Commission in its on-going relations with third countries in the field of air transport.

I.3. 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.4. Award Procedures

A multiple framework contract with reopening of competition will be concluded with a maximum of three tenderers ranked best when the bids are evaluated.

«Multiple Framework Contract with reopened competitions» means a situation whereby separate but identical framework contracts are concluded between the Contracting authority and the selected tenderers, setting out the general contractual terms (legal, financial, technical, administrative, etc.) that apply during their period of validity and govern commercial relations between the Commission and the contractors. The award procedure for the framework contract is described in chapter IV of these Tender Specifications.

Following the conclusion of the framework contracts, the Contracting authority may invite the selected contractors to submit a bid for a specific assignment. For each assignment a specific contract will be concluded, following the evaluation of the respective bids. More information about the **Specific Contracts** for carrying out an assignment can be found in chapter II.4 and the award procedure is described in chapter IV.4.

² The Commission, whenever needed for the purpose of the work, provides data collected by Eurostat according Regulation (EC) No 437/2003 of the European Parliament and of the Council of 27 February 2003 on statistical returns in respect of the carriage of passengers, freight and mail by air

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.

The Contracting authority reserves the right to contract services described in this call for tenders outside this framework contract.

II.1. Estimate of the amount of work involved

The maximum value of the framework contract for three years is 1,450,000.00 EUR. Specific Contracts will not be signed once the budget is exhausted.

II.2. Duration of framework contract

Each framework contract will be concluded for a period of one year from when it is signed, and may be renewed for further two one-year periods, by tacit agreement. The total duration of the framework contract will not exceed three years from the date it is concluded.

II.3. 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.

II.4. Specific Contracts under this Framework contract

Each time the Contracting authority will ask legal or socio-economic assistance an invitation to submit an offer will be sent to all contractors for the specific service (legal or socio-economic).

All contractors will be invited to submit an offer for the services described in the invitation. Within 5 working days, the contractors shall express in writing, by post or e-mail, their availability to carry out the services required.

Within 15 working days after the date of sending the request for services, the contractors will provide the Contracting authority with a written offer for the tasks required.

This offer shall detail the methodology, the deliveries, the composition of the team, the duration of work and the total price on the basis of the «person-day» price as agreed in the Framework Contract.

The offers received will be evaluated according to the Commission's standard procedures for calls for tender and the bidders will be ranked on the basis of the best ratio quality/price (see point IV.4). A specific contract will be then signed with the best ranked bidder.

For each specific contract the contractor and if applicable, the members of the group or association carrying out the task under the specific contract, will have to sign a conflict of interest declaration stating that he/she has no direct or indirect link with the work subject of the task.

The contractors shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the contract (see Annex 5: Article II.3.1. of the draft contract). They must declare in the offer their contractual relations during the last five years with any stakeholders and/or companies directly involved in the programmes, projects and legislative activities, conducted or subcontracted by the Directorate-General Energy and Transport to be evaluated under this Framework Contract. During the validity period of this Framework Contract, tenderers must declare any changes in their situation regarding the contractual relations referred to in this paragraph.

Tenderers undertake to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to the performance of the assignments and they shall continue to be bound by this undertaking after completion of the tasks (see annex 5: Article II.9.1).

The attention of the tenderers is drawn to Article II.15 of the draft contract: “Termination of the contract by the Commission” (see annex 5): in particular in case of failure by the Contractor to fulfil his/her obligations the Commission may terminate the contract at any time by registered letter without formal notice or payment of any compensation.

The award of the specific contract will be conditioned by the availability of sufficient funds.

II.4.1. Reports and documents to produce

For Specific Contracts under this Framework Contract the specific determine nature of the deliverables and reports required, whether it is to be a full impact assessment of a proposed agreement, or analysis of a third country’s market and so on.

The reports shall be supplied in an electronic format, both in MS Word and in PDF format, in English. The reports are addressed to policymakers as an aid to decision-making. They have to be drafted in a proper literate manner and must be fully comprehensible in terms of grammatical structure (complete sentences, punctuation, explanation of abbreviations, etc.), using simple and non-technical language for a non-specialised audience. Technical explanations shall be given in annexes.

The Commission may publish the results of a study. For this purpose, the tenderer must ensure that no restrictions based on confidentiality and/or intellectual property rights are expected from a third party. Should he intend to use data in a study, which cannot be published, this must be explicitly mentioned in the offer.

II.5. Subcontracting

In well justified cases and subject to the approval by the Commission, a contractor may subcontract parts of the services.

Contractors must state in their offers what parts of the work, if any, they intend to subcontract, and to what extent (% of the total contract value), specifying the names, addresses and legal status of the subcontractors. Legal persons must produce a document containing a list of the professional qualifications of the subcontractor. Tenderers may not choose subcontractors other than those mentioned in the bids unless they obtain the prior written authorisation of the Commission. The overall responsibility for the work remains with the tenderer.

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

II.6. Terms of payment

Payments shall be made in accordance with the provisions specified in Annex 5, the draft framework contract.

II.7. 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.8. Penalties

In the event of failure to provide the services within the deadline set in the Specific Contract Or if not provided in due form, penalties will be applied as stipulated in the draft framework contract, Article I.11.2 (annex 5).

II.9. Suspension of services

If a Contractor completes work more than ten working days later than stipulated in the Specific Contract or is found to have executed an order inadequately, the Commission may automatically suspend, by registered letter, the award of any further work to the Contractor in question for a period of three months (annex 5: Article I.11.3).

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 high importance in the assessment of the bids in the award procedure for the Framework Contract.

- The award criteria as set out in chapter IV.3 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 address assistance in areas of services raised in the specifications.
- Tenderers must present in their bids, as far as possible, a proposal on the general methodology and the organisation of the work to be applied for assistance in the legal and socio-economic under the Specific Contracts. The level of detail of the tender will be important for the evaluation of the tender.
- In particular, tenderers must prove in the technical proposal that they have adequate analytical capability and legal and socio-economic experience.
- The technical proposal must provide all 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.
- Prices must be fixed amounts.
- Tenderers must specify the asking price by total **person-day** for any type of service requested (legal and socio-economic). The price must be a flat rate and include all administrative costs, with the exception of travel expenses which will be reimbursed, where appropriate, in accordance with the conditions specified in I.3.4 of the draft framework contract.
- **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;

- Tenderers shall specify **one single price per person-day** whatever the type of service and qualification is requested. The price per person-day shall be valid for any services offered under a specific contract. This price must be a flat rate and include all administrative costs, **with the exception of travel expenses which will be reimbursed, where appropriate, in accordance with the special provisions of Annex III.**
- **Prices per person-day** shall be fixed and not subject to revision during the whole duration of the Framework Contract and any extension.

III.3. Validity of bids

Tenderers must be prepared to maintain their bids for six months from the final date for the submission of bids.

Requests for further information do not affect the deadline for submitting bids.

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 Regulation³)

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 Regulation⁴ for being guilty of misrepresentation in supplying the

³ 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.

⁴ 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..

The Commission reserves the right, however, to request any other document relating to the proposed tender for evaluation and verification purpose, within a delay determined in its request.

Bids submitted by tenderers which do not contain such documents will not be taken into consideration for the evaluation.

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.⁵

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 technical and professional competence on the following points:

- The tenderer must be able to display a proven track record in the field and be able to demonstrate a capacity for carrying out studies and impact assessments, conducting research and detailed socio-economic, legal and technical analyses at short notice and to tight deadlines in the areas identified in section I.2 above. In areas where in-house expertise is not permanently available, companies must be able to demonstrate a capacity to recruit or sub-contract additional experts with a proven track record.
- The tenderer should be able to demonstrate a good understanding and substantial expertise in the field of international aviation across a broad range of countries, and the ability to provide a wide geographical coverage.

⁵ 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.

- linguistic knowledge (in particular demonstrating that the tenderer can guarantee a high standard of spoken and written English, which will be the main working language);

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 of the core team 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 FOR THE FRAMEWORK CONTRACT

The framework 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	good understanding of the terms of reference of the tender	30
2	quality of methodologies to be employed, including methodology for impact assessments	40
3	quality of information sources and data (access, credibility, coverage, level of details) necessary to perform the work of wide geographical scope	30
Total number of points		100

b) Total price

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

Framework Contracts will not be awarded to tenderers who, during the procurement procedure are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.

IV.4. AWARD OF SPECIFIC CONTRACTS

Once the Framework Contracts have been signed with the best ranked tenderers of each lot, the Commission, when the need arises, may send an invitation to submit offers for carrying out an individual assignment. The Commission will select a contractor for a specific assignment on the basis of the submitted offers.

Offers must contain:

- a technical part, detailing the methodology, the composition and skills of the team and the responsible team leader for the specific assignment;
- a financial part, detailing the number of person-day to be multiplied by the person-day price as defined in the Framework Contract, and the maximum budget for reimbursable expenses, which will be reimbursed on the basis of the provisions defined in annex 5 (Article II.7).

The Specific Contract will be awarded according to the criteria given below, on the basis of the most economically advantageous tender (quality/price ratio).

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 award criteria** in their order of importance as weighted by percentage

N°	Award Criteria	Weighting
1	good understanding of the terms of reference of the tender	20
2	relevance and quality of methodologies to be employed, including overall contract management and work organisation to deliver the work in time	40
3	quality of information sources and data (access, credibility, coverage, level of details) necessary to perform the work of wide geographical scope	40
Total number of points		100

b) **Price:** Total price for fees (*number of days x person-day price fixed in the Framework Contract*). Reimbursable are excluded from the calculation of the ratio.

The Specific Contract will be awarded to the tender who offers the best quality/price ratio.

Specific Contracts will not be awarded to contractors who, during the procurement procedure:

(a) are subject to a conflict of interest;

(b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.

IV.5. 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 Framework 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 xx/xx/xxxx

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) ⁶	
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:	

⁶ 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 organisation⁷ I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	
Surname: First name:	Signature:

⁷ 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 Regulation⁸, 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.

Done at on.....

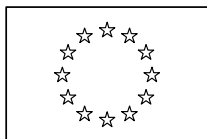
Name

Title

Signature:

⁸ 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.

ANNEX 5



EUROPEAN COMMISSION

DG

Directorate

Unit

DRAFT FRAMEWORK SERVICE CONTRACT

CONTRACT NUMBER – **TREN/F1/**

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 Mr [REDACTED], Director in the Directorate-General for Energy and Transport, Directorate [REDACTED]

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 TREN/F1/...)

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

Annex III - Daily allowances

Annex IV -Model of Specific Contract

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 Specific contracts (Annex IV), the latter taking precedence over 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.8 should he dispute any such instruction.

I – SPECIAL CONDITIONS

ARTICLE I.1 - SUBJECT

- I.1.1.** The subject of the Contract is a **Multiple Framework Contract with reopened competition for the provision to the Commission of support for the further development of EU air transport policy in relations with third countries and within the internal air transport market.** It is in the form of a multiple Framework Contract with reopened competition, whereby separate but identical Framework Contracts are concluded between the Commission and a maximum of three service providers with a view to ask all the contractors to submit a bid for the specific assignments to be carried out when needed.
- I.1.2** Signature of the Framework Contract imposes no obligation on the Commission to purchase. Only implementation of the Framework Contract through Specific Contracts is binding on the Commission.
- I.1.3** Once the Framework Contract has been signed, the Commission may invite the Contractors to participate to a tender, the awarded Contractor shall execute the tasks in accordance with all terms and conditions of the Framework Contract.
- I.1.4** The Framework Contract does not confer on the Contractor any exclusive right to provide the services described in Annex I to the Commission.

ARTICLE I.2 - DURATION

- I.2.1.** The Contract shall enter into force on the date on which it is signed by the last contracting party.
- I.2.2.** Under no circumstances may implementation commence before the date on which the Contract enters into force. Execution of the tasks may under no circumstances begin before the date on which the order or specific contract enters into force.
- I.2.3.** The Contract is concluded for a period of 12 months with effect from the date on which it enters into force. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated.
- The Specific Contracts shall be returned signed before the Contract to which they refer expires.
- The Contract shall continue to apply to such Specific Contracts after its expiry, but the period of execution of the tasks may be extended only with the express written agreement of the parties before the tasks have been completed.
- I.2.4** The Contract shall be renewed automatically up to two times under the same conditions, unless written notification to the contrary is sent by one of the contracting parties and received by the other before expiry of the period indicated in Article I.2.3. Renewal does not imply any modification or deferment of existing obligations.

ARTICLE I.3 – PRICES

- I.3.1** The price for the work, whatever its nature, must be calculated on the bases of a fee of EUR [xxx] **per person-day**. The maximum amount to be paid by the Commission under the Contract shall be 1.450.000,00 EUR, covering all tasks executed (including the expenditure set out in I.3.4).
- I.3.2** Prices shall be expressed in EUR.
- I.3.3** Prices shall be fixed and not subject to revision for implementation during the whole duration of the Framework Contract and any extension.
- I.3.4.** In addition to the total amount specified in each order or specific contract, 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 **determined in each specific contract**. The daily subsistence allowance referred to in Article II.7.4(d) shall be determined in accordance with Annex III. In addition, accommodation shall be reimbursed in accordance with Art.II.7.1 up to the maximum amounts specified in Annex III.

ARTICLE I.4 – IMPLEMENTATION OF THE CONTRACT

Once the Framework Contracts have been signed, the Commission, when the need arises, may send an invitation to submit offers for carrying out specific assignments.

Within 5 working days, the contractors shall express in written, by post or e-mail, their availability to carry out the services required.

Within 15 working days after the date of sending the request for services, the contractors will provide the Commission with a written offer for the tasks required.

This offer shall detail the methodology, the deliveries, the composition of the team, the duration of work and the total price on the basis of the «person-day» price as agreed in the Framework Contract.

The Commission will select a contractor for a specific assignment on the basis of the submitted offers according to the procedures defined in annex I of the framework contract (IV.4 award of specific contracts).

ARTICLE I.5 – PAYMENT PERIODS

Payments under the Framework Contract shall be made in accordance with Article II.4. The Contractor shall submit a separate invoice/separate invoices for each Specific Contract.

Payments shall be executed only if the Contractor has fulfilled all his/her contractual obligations by the date on which the invoice is submitted. Payment requests may not be made if payments for previous Specific Contracts have not been executed as a result of default or negligence on the part of the Contractor.

1. For total amounts **less than €25,000**, including expenses to be reimbursed according to Article III.4 of the Specific Contract: payments will be made after performance of the work and acceptance thereof by the Commission within 30 days of receipt of the request for payment. Payment shall be deemed to have been made on the day on which the Commission's account is debited.
2. For total amounts of **€25,000 or above**, including expenses to be reimbursed according to Article III.4 of the Specific Contract: the Contractor may request an advance of 30% of the total price of the service. The balance will be paid after performance of the work and acceptance thereof by the Commission within 30 days of receipt of the request for payment. Payment shall be deemed to have been made on the day on which the Commission's account is debited. For any pre-financing higher than 100,000 EUR, a financial guarantee equivalent to the amount of the pre-financing will be requested.

I.5.1. Pre-financing:

Within 30 days of the latest of the following dates:

- the date on which the Contractor returns the Specific Contract and the relevant invoice, indicating the reference number of the Contract and of the specific contract to which it refers,
- if applicable, the receipt by the Commission of a duly constituted financial guarantee equal to the amount of the pre-financing,

a pre-financing payment of 30% of the total value (excluding travel and subsistence costs) of the Specific Contract shall be made.

I.5.2 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 to the Specific Contracts;
- statements of reimbursable expenses in accordance with Article II.7;
- the relevant invoice(s), indicating the reference number of the Contract and of the Specific Contract to which they refer,

provided the final report has been approved by the Commission.

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

Within 30 days of the date of receipt of the relevant invoice(s), of the date on which the report is approved by the Commission, payment of the balance corresponding to the relevant invoices equal to 70% of the total amount referred to in the relevant Specific Contract and of the duly justified travel expenses and daily allowances shall be made.

For Contractors established in Belgium, the Specific Contracts shall include the following provision: “En Belgique, l’utilisation de ce bon de commande vaut présentation d’une demande d’exemption de la TVA n° 450” or an equivalent statement in the Dutch or German language. The Contractor shall include the following statement in his/her 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/her 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.6 – 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.7 – GENERAL ADMINISTRATIVE PROVISIONS

Any communication relating to the Framework Contract or to its implementation shall be made in writing and shall bear the Framework Contract and order or Specific Contract numbers. Ordinary mail shall be deemed to have been received by the Commission on the date on which it is registered by the department responsible indicated below. Communications shall be sent to the following addresses:

Commission:

European Commission
Directorate-General for Energy and Transports
[Directorate [complete]]
[Unit [complete]]
B-1049 Bruxelles

Contractor:

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

ARTICLE I.8– APPLICABLE LAW AND SETTLEMENT OF DISPUTES

I.8.1. The Framework Contract and the Specific Contracts shall be governed Community law complemented, where necessary, by the national substantive law of Belgium.

I.8.2. Any dispute between the parties resulting from the interpretation or application of the Framework Contract and the Specific Contracts which cannot be settled amicably shall be brought before the courts of Belgium.

ARTICLE I.9 – 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.10 – TERMINATION BY EITHER CONTRACTING PARTY

Either contracting party may, of its own volition and without being required to pay compensation, terminate the Framework Contract or the Specific Contracts by serving 2 months formal prior notice. Should the Commission terminate the Framework Contract or the Specific Contract, the Contractor shall only be entitled to payment corresponding to partperformance of the Specific Contract. On receipt of the letter terminating the Framework Contract or the Specific Contracts, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his/her commitments. He/she 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.11 – OTHER SPECIAL CONDITIONS

I.11.1 PAYMENTS

If the total price to be paid under a Specific Contract, including travel expenses to be reimbursed according to Article III.5 of the Specific Contract, amounts of less than €25.000, no pre-financing payment will be made.

I.11.2 PENALTIES

In the event of failure to provide the services by the deadline set in the Specific Contracts or in due form, penalties will be applied as follows:

1. In the event of late delivery:

a penalty will be applied using the following mathematical formula:

0,5% of the total value of the service X number of working days of delay.

The ceiling for the total amount of the penalty in the event of late delivery is 20% of the amount of the Specific Contract.

2. In the event of inadequate quality of work:

In the event of rejection on grounds of the quality of the deliverables after presentation for the second time, the Commission may relieve the defaulting Contractor of his/her duties. In that event, the Contractor will be required to reimburse any amount which he/she received under the contract.

In addition, the Commission may choose the next best available bidder for that Specific Contract to redo all the work at the defaulting Contractor's full expense.

3. All types of penalties, whether for inadequate quality of work or delays in implementation, will apply cumulatively but may not exceed one and a half times the value of the Specific Contract.

These penalties will apply automatically without formal notice simply as a result of the delay or defective work.

4. The financial penalties provided for Article II.15. shall be 10% when the beneficiary is declared to be in grave breach of his/her contractual obligations. This rate shall increase to 20% in the event of a repeated breach in the five years following the first.

I.11.3 SUSPENSION OF SERVICES

If a Contractor completes work more than ten working days later than stipulated in the Specific Contract or is found to have executed a Specific Contract inadequately, the Commission may automatically suspend, by registered letter, the award of any further work to the Contractor in question for a period of three months.

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 staffs 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 executes 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 – INVOICING AND PAYMENTS

II.4.1. Pre-financing :

Where required by Article I.5, 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 Framework Contract and of the order or Specific 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 each order or Specific Contract, 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 Framework Contract and of the order or Specific 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 I.5 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 I.5 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 interest, provided the calculated interest exceeds EUR 200. In case interest does not exceed EUR 200, the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations (“*the reference rate*”) plus seven percentage points (“*the margin*”). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment. Suspension of payment by the Commission may not be deemed to constitute late payment.

ARTICLE II.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** In the event of failure to pay by the deadline specified in the request for reimbursement, the Commission may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on the 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 Annex III to the Contract.

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.9 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 1above, 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 OF THE CONTRACT BY THE COMMISSION

II.15.1. The Commission may terminate the Contract, a pending order or a Specific 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 Commission 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 under a pending order or a Specific Contract has not actually commenced within fifteen days 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 f 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 of the relevant purchase 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 of the last implementation.
- 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 of the last implementation.
- 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 of the last implementation.

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. An order or a Specific Contract may not be deemed to constitute an amendment to the Contract.

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 Framework Contract, pending orders or Specific Contracts 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 TO THE FRAMEWORK CONTRACT

Tender Specifications

ANNEX II

Contractor's Tender (No [complete] of [complete])

ANNEX III TO THE FRAMEWORK CONTRACT

Frais de voyage et de séjour (si nécessaire)

Indemnités journalières pour les Etats membres de l'Union européenne

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	74,14	97,03
Autriche	Austria	74,47	128,58
Belgique	Belgium	84,06	117,08
Chypre	Cyprus	50,00	110,00
Danemark	Denmark	91,70	148,07
Espagne	Spain	68,89	126,57
Estonie	Estonia	70,00	120,00
Finlande	Finland	92,34	140,98
France	France	72,58	97,27
Grèce	Greece	66,04	99,63
Hongrie	Hungary	50,00	165,00
Irlande	Ireland	80,94	139,32
Italie	Italy	60,34	114,33
Lettonie	Latvia	85,00	165,00
Lituanie	Lithuania	80,00	170,00
Luxembourg	Luxembourg	82,00	106,92
Malte	Malta	60,00	115,00
Pays-Bas	Netherlands	78,26	131,76
Pologne	Poland	60,00	210,00
Portugal	Portugal	68,91	124,89
République tchèque	Czech Republic	55,00	175,00
Royaume-Uni	United Kingdom	86,89	149,03
Slovaquie	Slovakia	50,00	125,00
Slovénie	Slovenia	60,00	110,00
Suède	Sweden	92,91	141,27

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

Daily subsistence allowances for countries outside the European Union (in Euro)

DESTINATION		Indemnité Journalière	Plafond Hôtel
FR	EN	Daily allowance €	Maximum hotel price €
Afghanistan	Afghanistan	50	75
Afrique du Sud	South Africa	50	145
Albanie	Albania	50	160
Algérie	Algeria	85	85
Andorre*	Andorra*	68,89	126,57
Angola	Angola	105	175
Anguilla	Anguilla	75	140
Antigua et Barbuda	Antigua and Barbuda	85	140
Antilles néerlandaises	Netherlands Antilles	90	185
Arabie Saoudite	Saudi Arabia	85	195
Argentine	Argentina	75	210
Arménie	Armenia	70	210
Aruba	Aruba	80	185
Australie	Australia	75	135
Azerbaïdjan	Azerbaijan	70	200
Bahamas	Bahamas	75	115
Bahreïn	Bahrain	80	195
Bangladesh	Bangladesh	50	140
Barbade	Barbados	75	140
Belarus	Belarus	90	135
Belize	Belize	50	135
Bénin	Benin	50	100
Bermudes	Bermuda	70	140
Bhoutan	Bhutan	50	130
Bolivie	Bolivia	50	100
Bonaire	Bonaire	90	185
Bosnie Herzégovine	Bosnia and Herzegovina	65	135
Botswana	Botswana	50	135
Brésil	Brazil	65	180
Brunei	Brunei	60	165
Bulgarie	Bulgaria	70	205
Burkina Faso	Burkina Faso	55	90
Burundi	Burundi	50	115
Caïmans, îles	Cayman Islands	60	135
Cambodge	Cambodia	50	115
Cameroun	Cameroon	55	105

Canada	Canada	65	165
Cap-Vert	Cape Verde	50	75
Centrafricaine, Rép	Central African Republic	60	80
Chili	Chile	70	175
Chine	China	55	155
Chypre	Cyprus	50	110
Cisjordanie et Bande de Gaza	West Bank and Gaza Strip	60	110
Colombie	Colombia	50	120
Comores	Comoros	50	85
Congo (Rép. Dém. du)	Congo, Dem. Rep.	105	140
Congo (Rép. du)	Congo	70	115
Cook, îles	Cook Islands	50	135
Corée (Nord), R.P.D.	D.P.R of Korea	50	180
Corée (Sud), Rép. de	Republic of Korea	100	200
Costa Rica	Costa Rica	50	140
Côte d'Ivoire	Côte d'Ivoire	60	130
Croatie	Croatia	60	120
Cuba	Cuba	75	150
Djibouti	Djibouti	65	170
Dominicaine, Rép.	Dominican Republic	60	170
Dominique	Dominica	75	140
Egypte	Egypt	65	140
El Salvador	El Salvador	55	125
Emirats arabes Unis	United Arab Emirates	70	195
Equateur	Ecuador	50	140
Erythrée	Eritrea	50	80
Estonie	Estonia	70	120
Etats-Unis d'Amérique (Autres)	USA (others)	80	200
Etats-Unis d'Amérique (New York)	USA (New York)	100	275
Ethiopie	Ethiopia	50	145
Fidji	Fiji	50	120
Gabon	Gabon	75	115
Gambie	Gambia	50	120
Géorgie	Georgia	80	215
Ghana	Ghana	70	140
Grenade	Grenada	75	140
Guadeloupe	Guadeloupe	65	115
Guam	Guam	60	135
Guatemala	Guatemala	50	125
Guinée équatoriale	Equatorial Guinea	60	85
Guinée, Rép. de	Guinea	50	135
Guinée-Bissau	Guinea-Bissau	50	90
Guyane	Guyana	50	160
Guyane Française	French Guiana	55	140

Haïti	Haiti	65	125
Honduras	Honduras	50	125
Hong Kong	Hong Kong	60	205
Inde	India	50	195
Indonésie	Indonesia	50	145
Indonésie - Timor oriental	Indonesia - East Timor	50	110
Iran, Rép islam	Iran	55	145
Iraq	Iraq	60	85
Islande	Iceland	85	160
Israël	Israel	105	210
Jamaïque	Jamaica	60	170
Japon	Japan	130	275
Jordanie	Jordan	60	135
Kazakhstan	Kazakhstan	70	175
Kenya	Kenya	60	165
Kirghizistan	Kyrgyzstan	75	180
Kiribati	Kiribati	60	145
Koweït	Kuwait	85	195
Laos	Lao, People's Dem. Rep.	50	145
Lesotho	Lesotho	50	100
Liban	Lebanon	70	190
Liberia	Liberia	85	150
Libye, Jamahiriya ar.	Libyan Arab Jamahiriya	50	175
Liechtenstein	Liechtenstein	80	95
Macao	Macao	55	95
Macédoine (ARY)	TFYR of Macedonia	50	160
Madagascar	Madagascar	50	105
Malaisie	Malaysia	50	200
Malawi	Malawi	50	165
Maldives	Maldives	50	135
Mali	Mali	60	95
Mariannes du Nord, îles	Northern Mariana Islands	70	135
Maroc	Morocco	75	130
Marshall, îles	Marshall Islands	50	135
Martinique	Martinique	70	110
Maurice, Rép.	Mauritius	60	140
Mauritanie	Mauritania	50	75
Mayotte	Mayotte	50	110
Mexique	Mexico	70	185
Micronésie	Micronesia	55	135
Moldova	Republic of Moldova	80	170
Monaco*	Monaco*	72,58	97,27
Mongolie	Mongolia	70	90
Montserrat	Montserrat	55	140

Mozambique	Mozambique	60	140
Myanmar	Myanmar	50	75
Namibie	Namibia	50	85
Nauru	Nauru	50	135
Népal	Nepal	50	135
Nicaragua	Nicaragua	50	135
Niger	Niger	50	75
Nigeria	Nigeria	50	185
Niue	Niue	50	135
Norvège	Norway	80	140
Nouvelle-Calédonie	New Caledonia	55	135
Nouvelle-Zélande	New Zealand	60	125
Oman	Oman	70	135
Ouganda	Uganda	55	180
Ouzbékistan	Uzbekistan	75	155
Pakistan	Pakistan	50	130
Palau	Palau, Republic of	50	135
Panama	Panama	50	160
Papouasie Nouvelle Guinée	Papua New Guinea	55	135
Paraguay	Paraguay	50	140
Pérou	Peru	75	135
Philippines	Philippines	60	150
Polynésie française	French Polynesia	60	135
Puerto Rico	Puerto Rico	65	140
Qatar	Qatar	65	135
Réunion	Reunion	60	90
Roumanie	Romania	60	170
Russie	Russian Federation	90	275
Rwanda	Rwanda	65	160
Saint Kitts et Nevis	Saint Kitts and Nevis	85	185
Sainte-Lucie	Saint Lucia	75	140
Saint Marin*	San Marino*	60,34	114,33
Saint-Vincent et les Grenadines	St. Vincent and the Grena.	75	190
Salomon, îles	Solomon Islands	50	120
Samoa	Samoa	50	135
Samoa Américaines	American Samoa	70	135
São Tome et Principe	Sao Tome & Principe	60	95
Sénégal	Senegal	65	135
Seychelles	Seychelles	85	140
Sierra Leone	Sierra Leone	55	135
Singapour	Singapore	75	150
Somalie	Somalia	50	125
Soudan	Sudan	55	215
Sri Lanka	Sri Lanka	50	105
St Marteen	St Marteen	90	185

Suisse	Switzerland	80	140
Suriname	Suriname	55	125
Swaziland	Swaziland	50	90
Syrie	Syrian Arab Republic	80	145
Tadjikistan	Tajikistan	75	110
Taiwan, Prov de Chine	Taiwan	55	200
Tanzanie	Tanzania, United Rep. of	50	200
Tchad	Chad	65	145
Thaïlande	Thailand	60	145
Timor oriental	East Timor	50	110
Togo	Togo	60	95
Tokelau, îles	Tokelau Islands	50	135
Tonga	Tonga	50	105
Trinité et Tobago	Trinidad and Tobago	60	115
Tunisie	Tunisia	60	85
Turkménistan	Turkmenistan	80	150
Turks et Caicos, îles	Turks and Caicos Island	55	135
Turquie	Turkey	55	165
Tuvalu	Tuvalu	50	135
Ukraine	Ukraine	80	190
Uruguay	Uruguay	55	160
Vanuatu	Vanuatu	60	110
Vatican*	Vatican*	60,34	114,33
Venezuela	Venezuela	85	125
Vierges, îles (Etats-Unis)	Virgin Islands (USA)	55	140
Vierges, îles (Grande-Bretagne)	Virgin Islands (UK)	75	140
Viêt-Nam	Viet Nam	50	205
Wallis et Futuna îles	Wallis & Futuna Islands	50	135
Yémen	Republic of Yemen	60	165
Yougoslavie, Rép. Féd. (Serbie et Monténégro)	Yugoslavia	80	140
Zambie	Zambia	50	135
Zimbabwe	Zimbabwe	50	115
Autres pays	Other countries	60	145

* rallié géographiquement aux pays correspondants :
geographically linked to the following countries:

- Andorre/Andorra : Espagne/Spain
- Monaco : France
- Saint Marin/San Marino : Italie/Italy
- Vatican : Italie/Italy

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.

ANNEX IV TO THE FRAMEWORK CONTRACT

Model of Specific Contract

SPECIFIC CONTRACT No [complete]

Under Service Framework Contract N° TREN/F1/...

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 Mr [.....], 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

ARTICLE III.1: SUBJECT

III.1.1 This specific contract implements Framework Contract No [complete] signed by the Commission and the Contractor on [complete date] [and renewed on complete date].

III.1.2 The subject of this Specific Contract is [short description of subject].

III.1.3 The Contractor undertakes, on the terms set out in the Framework Contract, in its amendments and in this Specific Contract and the annex[es] thereto, which form an integral part thereof, to perform the tasks specified in Annex I.

The Commission agrees to entrust these tasks to the team described in the contractor's proposal.

ARTICLE III.2: DURATION

- III.2.1** This specific contract shall enter into force on the date on which it is signed by the last contracting party.
- III.2.2** The duration of the tasks as specified in this Specific Contract shall not exceed [xxx days/months]. Execution of the tasks shall start from date of entry into force of this Specific Contract. This duration includes the delivery of the final report. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.

ARTICLE III.3: PRICE

- III.3.1** The total amount to be paid by the Commission under this specific contract shall be EUR XXX [amount in figures and in words] covering all tasks executed.
- III.3.2** In addition, travel expenses, subsistence expenses of the Contractor and his staff and expenses for the shipment of equipment or unaccompanied luggage incurred in connection with missions carried out in connection with the execution of the services as stipulated in Article 1 of this Specific Contract, shall be reimbursed in accordance with the special provisions set out in Article II.7 of the Framework Contract, with a maximum of EUR XXX [amount in figures and in words] , and supported with justifying documents, such as mission details, original transportation tickets, paid invoices from travel agencies. Journeys agreed by the Commission are listed in Appendix III of the Specific Contract. Travel and subsistence expenses incurred by others than the Contractor and his staff (e.g. for stakeholders meetings) shall be compensated with the flat-rate price stated in this Specific Contract.

[For Contractors established in Belgium, the provisions of this 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.]

ARTICLE III.4 : INVOICING AND PAYMENT PROCEDURE

Payments under this Specific Contract shall be made in accordance with Article I.5 and II.4 of the Framework Contract. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted.

The Contractor may request an advance of 30% of the total price of the service :
Following the signature of the Specific Contract by the last contracting party, within 30 days of the date on which the Contractor returns the Specific Contract and a request for pre-financing with a relevant invoice, a pre-financing payment of EUR xxx equal to 30 % of the total value referred to in Article III.3.1 (flat rate price excluding travel and subsistence costs) of this Specific Contract shall be made.

The request for the 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,

- statements of reimbursable expenses in accordance with Article I.3.4 and II.7 of the Framework Contract,
- the relevant invoice(s), indicating the reference number of the Contract and of the specific contract to which they refer,

provided the report has been approved by the Commission.

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

Within 30 days of the date of receipt of the relevant invoice(s), of the date on which the report is approved by the Commission, payment of the balance corresponding to the relevant invoices equal to 70% of the total amount referred to in Article III.3 and of the duly justified travel expenses and daily allowances referred to in Article III.4 of this Specific Contract shall be made.

The approval process of the reports in both cases are subject to the deadlines on which the reports are to be submitted as indicated in Annex I (Specifications of Services attached to the contract).

Any request for payment relating to the performance of the present commitment should be sent to the following address:

Commission of the European Communities
Directorate-General for Energy and Transport

.....
.....

B - 1049 Brussels

ARTICLE III.5 : CHANGES IN THE TEAM

Changes or additions to the team initially proposed must be notified to the Commission in writing. The Commission will have the right to object to any changes of members of the team from those initially proposed. In case that the original team is no longer available, the Commission will have the right to cancel the Specific Contract.

ARTICLE III.6 : ADMINISTRATIVE PROVISIONS

Any communication relating to this Specific Contract shall be sent to the following addresses:

For the Commission:

- Administrative and technical questions:

Mr/Ms [REDACTED]
Commission of the European Communities
Directorate-General for Energy and Transport
Unit [REDACTED]
DM [REDACTED]
B – 1049 Brussels

For the Contractor:

Mr/Ms [REDACTED]

All correspondence arising out of this specific contract shall be in writing and shall be sent to the persons in charge.

ARTICLE III.7 : ANNEXES

The following annexes are attached to and form an integral part of this Specific Contract:

- Appendix I: Terms of reference: task description, schedule, reports, reference documents,
- Appendix II: Contractor's offer including CVs of the team members
- Appendix III: Journeys agreed by the Commission

The terms set out in the articles of the specific contract shall take precedence over those in the other parts of the Contract. The terms set out in the Tender Specifications (Appendix I) shall take precedence over those in the Tender (Appendix II).

Done at Brussels, [date],
In duplicate in English

For the European Community:
[first name/surname/function]

For the Contractor:
[Company name/first name/surname/function]

APPENDIX I TO THE MODEL OF SPECIFIC CONTRACT

Specific Contract N° 200X/XX/XX

Under Service Framework Contract N° TREN/F1/...

Terms of reference: task description, schedule, reports, reference documents.

APPENDIX II TO THE MODEL OF SPECIFIC CONTRACT

Specific Contract N° 200X/XX/XX

Under Service Framework Contract N° TREN/F1/...

Contractor's offer including CVs of the team members

APPENDIX III TO THE MODEL OF SPECIFIC CONTRACT

Specific Contract N° 200X/XX/XX

Under Service Framework Contract N° TREN/F1/...

Journeys agreed by the Commission

BUDGET FOR TRAVEL, SUBSISTENCE AND OTHER EXPENSES

For reference please see the stipulations in the framework contract

Contract No.	
Title of Study	

Travel Expenses					
Place/Country of Departure	Destination	Distance in km (approx.)	No. of Journeys		Maximum Budget in EURO
			One Way	Return Trip	

Subsistence expenses <i>(maximum length of the trip)</i>					
Destination	Daily Subsistence allowance		Maximum Hotel Price (if applicable)		Maximum Budget in EURO
	Days	Rate in EURO	Nights	Rate in EURO	

Shipment of equipment or unaccompanied luggage and other expenses agreed by the Commission	
Detailed Description of Expenses	Maximum Budget in EURO

Total Maximum Budget in EURO