



EUROPEAN COMMISSION
DG Information Society and Media Directorate-General
Electronic Communications Policy
Procedures Related to National Regulatory Measures

MODEL
FRAMEWORK SERVICE CONTRACT

Translation of notifications and Commission decisions under Article 7 of the Framework Directive 2002/21/EC (as amended by Directive 2009/140/EC)

CONTRACT NUMBER – [complete]

The European Union (hereinafter referred to as "the Union"), represented by the European Commission (hereinafter referred to as "the Commission"), which is represented for the purposes of the signature of this contract by Mr. Robert Madelin, Director General for Information Society and Media, or his authorised representative,

of the one part,

and

[official name in full]

[*official legal form*]

[*statutory registration number*]

[official address in full]

[*VAT registration number*]

(hereinafter referred to as "the Contractor"¹), [*represented for the purposes of the signature of this contract by [forename, surname and function,]*]

of the other part,

¹ In the case of a joint offer, the following clause shall be added below the identification of the parties: "The parties identified above and hereinafter collectively referred to as 'the Contractor' shall be jointly and severally liable vis-à-vis the Commission for the performance of this contract".

HAVE AGREED

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

Annex I – Tender Specifications (Invitation to Tender No [complete] of [complete])

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

Annex III – Model Order Form

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 orders (Annex III), 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 the translation of notifications of draft regulatory measures notified under Article 7 of the Framework Directive 2002/21/EC (as amended by Directive 2009/140/EC) to the Commission by the National Regulatory Authorities (“NRAs”) in their respective official language and the translation of other documents related to the notifications, including, occasionally, the translation of Commission decisions regarding the notified draft measures.
- I.1.2** The Contractor shall execute the tasks assigned to him in accordance with the Tender Specifications annexed to the Contract (Annex I).
- I.1.3** Signature of the Contract imposes no obligation on the Commission to purchase. Only implementation of the Contract through orders is binding on the Commission.
- I.1.4** Once implementation of the Contract has been asked or has commenced, the Contractor shall reply and execute the tasks in accordance with all terms and conditions of the Contract.
- I.1.5** The 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 contract enters into force.
- I.2.3** The Contract is concluded for a period of 24 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. Execution of the tasks shall start from [30 January 2011]².
- I.2.4** The orders shall be returned signed before the Contract to which they refer expires.
The Contract shall continue to apply to such orders after its expiry, but no later than 15 days.
- I.2.5** The Contract may be renewed once, for a period of execution of tasks of 24 months, only before expiry of the Contract and with the express written

² It is expected the execution of the tasks will start from 30 January 2011.

agreement of the parties, indicating the date on which execution of the tasks shall start. Renewal does not imply any modification or deferment of existing obligations.

ARTICLE I.3 –PRICES

I.3.1 The prices of the services shall be as listed in Annex II. Regarding translations from/into languages gaining the status of an official EU language during the period of validity of the contract as set out in section 5.3.1 of the tender specifications, the average price as calculated according to section 6.3.1. of the tender specifications will apply.

The Commission undertakes to pay the Contractor, in consideration of services rendered under this Contract, a sum for each translation carried out equal to the number of pages of source text, multiplied by the rate(s) indicated in Annex II for the relevant language combination(s), the number of pages in each case being determined by the Commission departments. A standard page is defined as 1500 characters excluding spaces, and the page count should be rounded to one decimal place.

I.3.2 Prices shall be expressed in EUR.

I.3.3 The prices indicated under I.3.1 shall be valid for the initial duration of the Contract, i.e. the first 24 months. The prices may be revised upwards or downwards, where such revision is requested by one of the contracting parties by registered letter received by the other no later than three months before the expiry of the Contract.

This revision shall be determined by the trend in the harmonised consumer price index MUICP published for the first time by the Publications Office of the European Union in the Eurostat monthly 'Data in Focus' publication at <http://www.ec.europa.eu/eurostat/>.

Revision shall be calculated in accordance with the following formula:

$$\text{Pr} = \text{Po} \frac{\text{Ir}}{\text{Io}}$$

where:

Pr = revised price per standard page;

Po= price per standard page quoted in the original tender;

Io = index for the month corresponding to the final date for submission of tender

Ir = index for the month corresponding to the date of receipt of the letter requesting a revision of prices

ARTICLE I.4 – IMPLEMENTATION OF THE CONTRACT

- I.4.1.** The Commission will transfer texts for translation to the contractor electronically. The contractor will immediately confirm the receipt of the texts for translation by an automatic confirmation email or a personal email. The period allowed for the execution of the tasks shall start to run upon receipt of the texts for translation.
- I.4.2.** An order form will be sent to the Contractor by email as advanced copy. Within four hours of the order form being sent by the Commission, the Contractor shall return it by email, duly signed and dated as advanced copy. The paper version of the signed order form will be sent by the Commission, signed by the contractor and returned to the Commission in due time.
- I.4.3.** The contractor will transfer the translations electronically. The Commission will immediately confirm the receipt of the translations by an automatic confirmation email or a personal email.
- I.4.4.** In case of temporary unavailability of email and on request of the Commission or the contractor, the transfers will be made using physical facsimile. The electronic transmission of texts for translations and the transfer of translations will be made up for at the earliest stage.

ARTICLE I.5 – PAYMENT PERIODS

- 1.5.1.** Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted. Payment requests may not be made if payments for previous orders have not been executed as a result of default or negligence on the part of the Contractor.
- 1.5.2.** At the end of each month following the date of the commencement of the execution of the tasks, the Contractor shall invoice the Commission for the number of translated pages (as defined in Article I.3.1) received by the Commission during that month. The invoice will be presented distinguishing between

- notifications and technical annexes;
- responses by NRAs to requests for further information;
- responses by other NRAs to notifications, messages and other documents received during the procedure;
- other documents related to the notification;
- type of Commission decision (i.e. no/comments letter, launch of phase II investigations, withdrawal of serious doubts/lifting of reservations, veto);

and contain a complete list of translations done, with reference to the original text, the number of pages, the unit price per page and the order form(s) concerned.

The invoice should also provide, besides the disclosures required by law:

- the breakdown of fees and the amount of VAT applied, if any, or, where appropriate, the indication that the services rendered under the Contract are exempt from VAT in conformity with the national tax law by which the contractor is governed and a reference to that law;
- a reference to the Contract number as shown on the first page of this Contract;
- full details of the bank account to which payments should be made, as specified in Article I.6.

I.5.3. The Commission undertakes to pay sums due pursuant to the Contract within a maximum of thirty calendar days running from the date on which it receives the invoice, properly established in accordance with the instructions in Article I.5.2, to the date on which the Commission's account is debited.

The Commission may suspend this payment period at any time within the thirty-day period following receipt of the invoice by notifying the Contractor that his request is not admissible, either because the amount is not due, or because the necessary supporting documents have not been produced, or because the contractor has not fulfilled its performance obligations. The payment period shall continue to run from the date on which the properly established invoice is received.

I.5.4. Invoices should be sent to the following address:

European Commission

Information Society and Media Directorate General

Directorate B – Electronic Communications Policy:

Attn: Mr Y. Domzalski - BU-33 06/55

B – 1049 BRUSSELS

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

Commission:

European Commission

Information Society and Media Directorate general - Directorate-General

Directorate B – Electronic Communications Policy

Unit B5 - Procedures Related to National Regulatory Measures

for the attention of Mr. Y.Domzalski

BU-33 6/55

B – 1049 Brussels

Fax: (+32-2) 296.90.15

[Yves Domzalski@ec.europa.eu](mailto:Yves.Domzalski@ec.europa.eu)

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 Contract shall be governed by Union 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 Contract which cannot be settled amicably shall be brought before the courts of Brussels, Belgium.

ARTICLE I.9 – DATA PROTECTION

- I.9.1.** 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 Controller without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in conformity with Union law. 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 Controller. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.
- I.9.2.** For the purpose of this contract, the “Controller” shall be the Head of the Unit in charge of this contract. Any queries concerning the processing of personal data of the Contractor can be addressed by e-mail to the following contact person: INFSO-DATA-PROTECTION-COORDINATOR@ec.europa.eu by indicating the contract reference.
- I.9.3.** When processing personal data on behalf of the “Controller”, in the performance of the Contract, the Contractor:
1. shall act only on instructions from the “Controller”;
 2. shall comply with the obligations set out in Articles 21 and 22 of Regulation (EC) N° 45/2001 on the confidentiality and the security of processing unless, by virtue of Article 16 or Article 17(3), second indent, of Directive 95/46/EC, the Contractor is already subject to obligations with regard to confidentiality and security laid down in the national law of one of the Member States. Appropriate technical and organisational measures will be taken by the Contractor for the security of the processing in accordance with Article 22 of Regulation (EC) N° 45/2001 and will have to be agreed between the Contractor and the “Controller” in writing or in another equivalent form.

I.9.4 The Contractor shall comply with Council Regulation (Euratom, EEC) N° 1588/90 of 11 June 1990 on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities (OJ No L151, 15.6.1990, p. 1).

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 Contract by serving 6 months formal prior notice. Should the Commission terminate the Contract, the Contractor shall only be entitled to payment corresponding to the services ordered and executed before the termination date. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

ARTICLE I.10a – CONTRACT CONCLUDED DURING STANDSTILL PERIOD

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

ARTICLE I.11 – OTHER SPECIAL CONDITIONS

I.11.1. The Commission will set up a system of periodic verifications and controls of the translations in order to ensure that the Contractor fulfils its performance obligations as indicated in Article II.1 hereafter. The Contractor shall cooperate with the Commission to this effect and, in particular, shall give effect to the recommended actions provided by the Commission further to these verifications and controls.

I.11.2. In addition to the terms of Article II.16 of this contract, in view of the necessity of ensuring compliance with the strict deadlines imposed by the notification procedure as set out in the Framework Directive and the Commission Recommendations on notification, should the contractor fail to perform his contractual obligations within the specified deadlines, 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 amounting to 10% of the value of the total fee payable, per calendar day of delay, for each requested translation which has not been submitted within the appropriate deadline. 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. 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.

- I.11.3.** By derogation to the terms of Article II.13, where necessary in order to comply with the obligations of this contract, the Contractor may subcontract part of the work allocated to him under the terms of this contract to freelance translators without prior approval of the Commission, provided that the contractor has assurance on the professional capacity of the subcontractors to perform the translation services at the required quality standards.
- I.11.4.** In his contractual arrangements with any subcontractor, the Contractor shall specify that Article II.17 of this contract shall apply to the subcontractor by analogy.
- I.11.5.** In any case of subcontracting, the Contractor shall remain bound by his obligations to the Commission under the Contract and bear the exclusive liability for the proper performance of the contract.

II – GENERAL CONDITIONS

ARTICLE II. 1 – PERFORMANCE OF THE CONTRACT

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

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

- staff executing the tasks assigned to the Contractor may not be given orders direct by the Commission;
 - the Commission may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Commission any right arising from the contractual relationship between the Commission and the Contractor.
- II.1.7** In the event of disruption resulting from the action of a member of the Contractor's staff working on Commission premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. The Commission shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must

have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.

- II.1.8** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the Commission. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.
- II.1.9** Should the Contractor fail to perform his obligations under the Contract in accordance with the provisions laid down therein, the Commission may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, the Commission may impose penalties or liquidated damages provided for in Article II.16.

ARTICLE II. 2 – LIABILITY

- II.2.1** The Commission shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of the Commission.
- II.2.2** The Contractor shall be liable for any loss or damage caused by himself in performance of the Contract, including in the event of subcontracting under Article II.13. The Commission shall not be liable for any act or default on the part of the Contractor in performance of the Contract.
- II.2.3** The Contractor shall provide compensation in the event of any action, claim or proceeding brought against the Commission by a third party as a result of damage caused by the Contractor in performance of the Contract.
- II.2.4** In the event of any action brought by a third party against the Commission in connection with performance of the Contract, the Contractor shall assist the Commission. Expenditure incurred by the Contractor to this end may be borne by the Commission.
- II.2.5** The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the Commission should it so request.

ARTICLE II. 3 - CONFLICT OF INTERESTS

II.3.1 The Contractor shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified to the Commission in writing without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

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

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

II.3.3 The Contractor declares:

- that he has not made and will not make any offer of any type whatsoever from which an unjustified 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.5.1, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) equal to the amount indicated in the same Article to cover pre-financing under the Contract. Such guarantee may be replaced by a joint and several guarantee by a third party.

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

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

The guarantee shall specify that it enters into force at the latest on the date on which the Contractor receives the pre-financing. The Commission shall release the guarantor from its obligations as soon as the Contractor has demonstrated that any pre-financing has been covered by equivalent work. The guarantee shall be retained until the pre-financing has been deducted from interim payments or payment of the balance to the Contractor. It shall be released the following month or, at the latest, three months after the issuance of a recovery order. The cost of providing such guarantee shall be borne by the Contractor.

II.4.2 Interim payment:

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

- an interim technical report in accordance with the instructions laid down in Annex I;
- the relevant invoices indicating the reference number of the Contract 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, the Contractor shall submit to the Commission a formal request for payment accompanied by those of the following documents, which are provided for in the Special Conditions:

- a final technical report in accordance with the instructions laid down in Annex I;
- the relevant invoices indicating the reference number of the Contract 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 Article 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 and set out the reasons for the suspension by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in Article I.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 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 Union or the European Atomic Energy Community 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 that 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 Union territory shall be reimbursed under the general conditions stated above provided the Commission has given its prior written agreement.

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

- a) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;
- b) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;
- c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including accommodation, meals, local transport, insurance and sundries;
- d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article I.3.

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 Union, 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 Union. 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 Union.
- II.11.3** The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.
- II.11.4** Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

ARTICLE II. 12 – FORCE MAJEURE

- II.12.1** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.
- II.12.2** Without prejudice to the provisions of Article II.1.8, if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.12.3** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.12.4** The contracting parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II. 13 – SUBCONTRACTING

- II.13.1** The Contractor shall not subcontract without prior written authorisation from the Commission nor cause the Contract to be performed in fact by third parties.
- II.13.2** Even where the Commission authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Commission under the Contract and shall bear exclusive liability for proper performance of the Contract.
- II.13.3** The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the Commission is entitled by virtue of the Contract, notably Article II.17.

ARTICLE II. 14 – ASSIGNMENT

- II.14.1** The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Commission.
- II.14.2** In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the Commission.

ARTICLE II. 15 – TERMINATION BY THE COMMISSION

II.15.1 The Commission may terminate the Contract, 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 not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
- (c) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of professional misconduct;
- (d) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- (e) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the Contract;
- (f) where the Contractor is in breach of his obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by the Commission as a condition of participation in the Contract procedure or failed to supply this information;
- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Commission's opinion, have a significant effect on the performance of the Contract;
- (i) where 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;

- (l) when due to the termination of the contract with one or more of the contractors there is no minimum required competition within the multiple framework contract with reopening of competition.

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 c), d), e), h) or k), the Contractor shall be given the opportunity to submit his observations.

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

II.15.4 Consequences of termination:

In the event of the Commission terminating the Contract or a pending order or specific 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 execute or complete the services. The Commission shall be entitled to claim from the Contractor all extra costs incurred in doing so, without prejudice to any other rights or guarantees enforceable under the Contract.

ARTICLE II.15a – SUBSTANTIAL ERRORS, IRREGULARITIES AND FRAUD ATTRIBUTABLE TO THE CONTRACTOR

Where, after the award of the Contract, the award procedure or the performance of the Contract prove to have been subject to substantial errors, irregularities or fraud, and where such errors, irregularities or fraud are attributable to the Contractor, the Commission may refuse to make payments, may recover amounts already paid or

may terminate all the contracts concluded with the Contractor, in proportion to the seriousness of the errors, irregularities of fraud.

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 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 Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the Union from signature of the Contract up to five years after payment of the balance of the last implementation.
- II.17.2** The Commission or an outside body of its choice shall have the same rights as the Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to five years after payment of the balance of the last 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 Contract, pending orders or specific contracts 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, of the orders or specific contracts, or of part thereof.

SIGNATURES

For the Contractor,

For the Commission,

[*Company name/forename/surname/function*]

Mr. Robert Madelin, Director General for Information Society and Media,

signature[s]: _____

signature[s]: _____

Done at [Brussels], [date]

Done at [Brussels], [date]

In duplicate in English.

ANNEX I


Tender Specifications

ANNEX II

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

ANNEX III

Model order form

| | | | | | |
|---|---|--|--|-------------------|----------------------------------|
|  | EUROPEAN COMMISSION | ORDER FORM (to be mentioned in all correspondence) | Number of sheets | Sheet No | Date and reference of your offer |
| | D/2011/ - 10/ | | (Name of supplier) | | |
| DG Information Society and Media, Electronic Communications Policy: Procedures related to National Regulatory Measures | | Supplier code: N° L.E. | | | |
| Tel.: (+32-2)296 15 55 or 298 54 91 Fax.: (+32-2)298.88.59 info-art7-translations@ec.europa.eu | | Country of origin: | | | |
| | | Currency of payment: EUR Code country of origin/currency | | | |
| This order is governed by the provisions of Framework Contract- in force from | | | | | |
| Acceptance of this order implies that the contractor waives all other terms of business or of execution of the works. | | | | | |
| DESCRIPTION OF THE GOODS (Case number - case title - document type - source language/target language) | | DATE OF DELIVERY | NUMBER OF PAGES | PRICE in € | |
| NOTIFICATION Case File is classified ref. | | | | UNIT PRICE* | TOTAL |
| Pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union the Commission is exempt from all taxes and dues, including value added tax, on payments due in respect of this Order Form. [In Belgium, use of this order form constitutes a request for VAT exemption. The invoice must include the following statement: "Certificat de langage officiel de l'Union Européenne. Exonération de la TVA; article 42 § 3.3 du Code de la TVA".] | | * at the latest by 16h0 | *1500 characters excl. spaces; 1 decimal | * 1 unit = 1 page | |
| | | TOTAL | | 0, | 0,00 |
| | | | | : | 0 € |
| Place of delivery or implementation and/or Incoterm: European Commission, DG Information Society and Media, Directorate B : Electronic Communications Policy Attn: Mr Y. Domzalski - BU 33 6/55, B-1049 BRUSSELS Document sent by email on : | | | Supplier's signature (confirmation that the order has been accepted) | | |
| Deadlines for delivery are legally binding, mandatory and rigid. They include the day of receipt and submission by the contractor. The delivery must be made at the latest by 16.00 on the date specified. Generally, the deadlines are as follows: (1) Notifications and technical annexes = 3 calendar days; (2) Responses by NRAs to requests for further information = 2 to 3 calendar days; (3) English draft decisions from the Commission to be translated back to source language, and into French and German (i.e. of veto decisions) = 1 to 2 calendar days (4) Other documents related to the notification translation into English = 3 to 5 calendar days | | | Name : | | |
| Payment: cf. Articles I.5, I.11 and II.5 of the Framework Service Contract | | | Date : | | |
| Requesting department: Director Electronic Communications Policy, DG INF SO B | | | Name : Bernd LANGEHEINE | | |
| Date of issue: | | | : | | |