



EUROPEAN COMMISSION

DIRECTORATE GENERAL  
ECONOMIC AND FINANCIAL AFFAIRS  
Growth, competitiveness and structural reforms  
**Models and Databases**

## **GENERAL INVITATION TO TENDER**

N° 2015 ECFIN 014/B

**Open Procedure**

Title: Data Supply Services - Bonds and Equity Data

**Period: 2016-2020**

**OJ 2015/S 158-290017 dated 18/08/2015**

# **TENDER SPECIFICATIONS**

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# Glossary

Tenderer	Participating Company in this Call for Tender
EC	European Commission
DG ECFIN	Directorate General Economic and Financial Affairs of the European Commission
DG FISMA	Directorate General Financial Stability, Financial Services and Capital Markets Union
DG DIGIT	Directorate General Informatics
HR-DS	Directorate Security – part of Directorate General Human Resources and Security
WTO	World Trade Organisation
IT	Information Technology
ESRB	European Systemic Risk Board
IPO	Initial Public Offering
CDOs	Collateralised Debt Obligation
CLOs	Collateralized loan obligations
CDS	Credit Default Spreads

## **1. INFORMATION ON TENDERING**

### **1.1 Participation and general terms and conditions for the submission of tenders**

Participation in this tender procedure is open on equal terms to all natural and legal persons coming within the scope of the Treaties and to all natural and legal persons in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement. Where the Multilateral Agreement on Government Procurement<sup>1</sup> concluded within the WTO applies, the participation to the call for tender is also open to nationals of the countries that have ratified this Agreement, on the conditions it lays down.

The Protocol on the Privileges and Immunities or, where appropriate, the Vienna Convention of 24 April 1963 on Consular relations shall apply to this invitation to tender.

**Please note that this is an open call subject to public procurement procedures therefore, offers cannot be negotiated on price or data content.**

### **1.2 Contractual terms and conditions**

The Commission's draft Service Contract (Annex 4) is the preferred one.

The tenderer should bear in mind the provisions of the draft contract which specifies the rights and obligations of the contractor, particularly those on payments, performance of the contract, confidentiality, and checks and audits.

The tenderer may propose an alternative contract, provided that it conforms to the Commission's financial regulations. In this case, the contract proposed by the tenderer will be submitted to the Commission's legal services and will be negotiated in the context of the Commission's financial regulations with the tenderer's legal department.

The absence of an annexed draft contract from the tenderer in the offer will automatically result in the use of the Service Contract.

The failure of the negotiations between the two legal services concerning the alternative contract proposed by the tender will result either in the application of the Service Contract proposed in Annex 4 or the award of the contract to another tenderer, or no award being made under this call for tenders.

### **1.3 Joint tenders**

A joint tender is a situation where a tender is submitted by a group of economic operators (consortium). Joint tenders may include subcontractors in addition to the joint tenderers.

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<sup>1</sup> See [http://www.wto.org/english/tratop\\_E/gproc\\_e/gp\\_gpa\\_e.htm](http://www.wto.org/english/tratop_E/gproc_e/gp_gpa_e.htm)

In case of joint tender, all economic operators in a joint tender assume joint and several liability towards the Contracting Authority for the performance of the contract as a whole. Nevertheless, tenderers must designate a single point of contact for the Contracting Authority.

After the award, the Contracting Authority will sign the contract either with all members of the group, or with the member duly authorised by the other members via a power of attorney.

#### **1.4 Subcontracting**

Subcontracting is permitted in the tender but the contractor will retain full liability towards the Contracting Authority for performance of the contract as a whole.

Tenderers must give an indication of the proportion of the contract that they intend to subcontract.

Tenderers are required to identify all subcontractors whose budgetary share of the contract is above 20%.

During contract execution, the change of any subcontractor identified in the tender will be subject to prior written approval of the Contracting Authority.

#### **1.5 Content of the tender**

##### **The tenders must be presented as follows:**

- **Part A: Identification of the tenderer: The tenderer will give an answer to all requirements as defined in point 1.6**
- **Part B: Evidence for exclusion criteria: The tenderer will give an answer to all requirements as defined in point 2.2**
- **Part C: Evidence for selection criteria: The tenderer will give an answer to all requirements as defined in point 2.3**
- **Part D: Technical offer: The tenderer will give an answer to all requirements as defined in point 2.5**
- **Part E: Financial offer: The tenderer will give an answer to all requirements as defined in point 2.6 and will include the mandatory signed financial form**
- **Part F: Optionnally – A Draft Contract (with reference to point 1.2)**

#### **1.6 Identification of the tenderer: legal capacity and status**

The tender must include a cover letter presenting the name of the tenderer (including all entities in case of joint offer) and identified subcontractors if applicable, and the name of the single contact person in relation to this tender.

If applicable, the cover letter must indicate the proportion of the contract to be subcontracted.

In case of joint tender, the cover letter must be signed by a duly authorised representative for each tenderer, or by a single tenderer duly authorised by other tenderers (with power of attorney).

Subcontractors must provide a letter of intent stating their willingness to provide the service foreseen in the offer and in line with the present tender specification.

In order to prove their legal capacity and their status, all tenderers must provide a signed Legal Entity Form with its supporting evidence. The form is available online at the following address:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

Tenderers that are already registered in the Contracting Authority's accounting system (i.e. they have already been direct contractors) must provide the form but are not obliged to provide the supporting evidence.

The tenderer (or the single point of contact in case of joint tender) must provide a Financial Identification Form and supporting documents. Only one form per offer should be submitted (no form is needed for subcontractors and other joint tenderers). The form is available online at the following address:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm)

Tenderers must provide the following information if it has not been included with the Legal Entity Form:

- For legal persons, a legible copy of the notice of appointment of the persons authorised to represent the tenderer in dealings with third parties and in legal proceedings, or a copy of the publication of such appointment if the legislation which applies to the legal entity concerned requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.
- For natural persons, where applicable, a proof of registration on a professional or trade register or any other official document showing the registration number.

## **2. EVALUATION AND AWARD**

### **2.1 Evaluation steps**

The evaluation is based on the information provided in the submitted tender. It takes place in three steps:

- (1) Verification of non-exclusion of tenderers on the basis of the exclusion criteria
- (2) Selection of tenderers on the basis of selection criteria
- (3) Evaluation of tenders on the basis of the award criteria (technical and financial evaluation)

Only tenders meeting the requirements of one step will pass on to the next step.

The Commission reserves the right not to select a tenderer in case the content of its offer, as described in point 1.5, was not complete.

### **2.2 Exclusion criteria**

All tenderers shall provide a declaration on their honour (see Annex 1), duly signed and dated by an authorised representative, stating that they are not in one of the situations of exclusion listed in the Annex 1.

The declaration on honour is also required for identified subcontractors whose intended share of the contract is above 20%.

The successful tenderer shall provide the documents mentioned as supporting evidence in Annex 1 before signature of the contract and within a deadline given by the contracting authority. This requirement applies to all members of the consortium in case of joint tender and to identified subcontractors whose intended share of the contract is above 20%.

### **2.3 Selection criteria**

Tenderers must prove their economic, financial, technical and professional capacity to carry out the work subject to this call for tender.

The evidence requested should be provided by each member of the group in case of joint tender and identified subcontractor whose intended share of the contract is above 20%. However a consolidated assessment will be made to verify compliance with the minimum capacity levels.

The tenderer may rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the Contracting Authority that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

#### **2.3.1 Economic and financial capacity criteria and evidence**

##### **2.3.1.1 Criteria**

In order to prove their economic and financial capacity, the tenderer (i.e. in case of joint tender, the combined capacity of all members of the consortium and identified subcontractors) must comply with the following criteria:

Turnover of the last two financial years related to the service above € 200 000

### 2.3.1.2 Evidence

The following evidence should be provided:

- Copy of the profit & loss account and balance sheet for the last two years for which accounts have been closed;
- Failing that, appropriate statements from banks;
- If applicable, evidence of professional risk indemnity insurance.
- If, for some exceptional reason which the Contracting Authority considers justified, a tenderer is unable to provide one or other of the above documents, he or she may prove his or her economic and financial capacity by any other document which the Contracting Authority considers appropriate.

In any case, the Contracting Authority must at least be notified of the exceptional reason and its justification in the tender. The Commission reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

### 2.3.2 Technical and professional capacity criteria and evidence

#### 2.3.2.1 Criteria

Technical and professional capacity of tenderers (i.e. in case of joint tender, the combined capacity of all members of the consortium and identified subcontractors) shall be evaluated and verified with regard in particular to their *experience and reliability*.

#### 2.3.2.2 Evidence

The following evidence should be provided to fulfil the above criteria:

- Proof of similar work performed in the last three years stating contract amounts and type of work performed;
- A list of the methodologies used by the tenderers to ensure the quality of check of the data;
- A Statement of the ability to meet the requirements outlined in point 3.7;
- A Description of the internal quality management procedures put in place by tenderers to ensure quality control of the services provided;
- An Organisation chart of tenderer's company
- The completed I.T. Technical Requirements Questionnaire set out in Annex 3. Any lack of answer will be considered as a negative answer. All questions marked as "Yes, mandatory" must be positively replied. The tenderer who could not satisfy one or more mandatory IT requirements would be not selected.



**2.3.3** Bids from tenderers who do not satisfy the exclusion and/or selection criteria will not be considered for the award of the contract.

## **2.4 Award criteria**

**2.4.1** The tender will be awarded according to the best-value-for -money procedure.

**2.4.2** According to the description of the services requested in points 3.7, the quality of the tender will be evaluated based on the following criteria. The maximum total score is 100 points.

	<b>Evaluation of the Quality of the tender – Criteria:</b>	<b>Max: 100 Points</b>
	According the description of the services requested in point 3.7, the proposals will be evaluated under different aspects *	
1.	Data Quality - as described in point 3.7.1.1 - For Equity and Fixed Income Securities	<b>30</b>
2.	Data Coverage, Data breakdown and length of the series: - as described in point 3.7.1.2 and 3.7.2 - For Equity and Fixed Income Securities	<b>40</b>
3.	Customisable database - as described in point 3.7.1.3 - For Equity and Fixed Income Securities	<b>15</b>
4.	IT technical Requirements: - as described in 3.7.3 - on the basis of the answers provided in the IT questionnaire	<b>15</b>

**2.4.3** After the opening of the tenders, tenderers may be requested by the Evaluation Committee:

- To provide electronic files containing bond and equity data samples which would be taken into account in the evaluations. The samples, to be specified by the Commission and identified by ISIN numbers, will be subject to the examination with respect to award criteria 1 and 2.
- To allow the evaluators a free trial of the software that may be taken into consideration in the evaluation with respect to all award criteria.

**2.4.4** The tender will be subject to the following additional qualitative criteria:

- Tenders must score at least 70 points out of 100 points in total.
- Tenders must score at least 70% for each award criteria 1 and 2.

- Tenders must score at least 50% for each award criteria 3 and 4.
- The technical offer, preferably to be presented as described at point 2.5, must cover all aspects and tasks required in the technical specification and provide all the information needed to apply the award criteria.

**2.4.5** Offers deviating from the requirements or not covering all requirements may be penalised on the basis of non conformity with the tender specifications.

**2.4.6** Tenders that do not reach the minimum quality thresholds will be rejected and will not be ranked.

**2.4.7** After evaluation of the quality of the tender, the tenders are ranked using the formula below to determine the tender offering best value for money. A weight of 70/30 is given to quality and price.

<p><b>Score for tender X =</b>          (cheapest price / price of tender X * 40)          +          (total quality score (out of 100) /100 * 60)</p>
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**2.4.8** The Commission reserves the right not to select any tender if the amounts tendered exceed the budget envisaged for this project.

## **2.5 Technical offer**

**2.5.1** The technical offer must cover all aspects and tasks required in the technical specification under point 3.7 and provide all the information needed to apply the award criteria.

**2.5.2** More specifically, information needs to be provided regarding:

- Data Quality, as described in point 3.7.1.1, both for Equity and Fixed Income Securities
- Data Coverage, Data breakdown and length of the series, as described in point 3.7.1.2 and 3.7.2, both For Equity and Fixed Income Securities
- The level of Customisable database, as described in point 3.7.1.3, For Equity and Fixed Income Securities
- IT technical Requirements, as described in 3.7.3, on the basis of the answers provided in the IT questionnaire
- **The filled in compulsory IT questionnaire in Annex 3**

## **2.6 Financial offer**

**2.6.1 Prices schedule:** The tenderer is invited to provide a price schedule using the form in Annex 2. The price quotation must be signed by the tenderer or his duly

authorised representative.

**2.6.2 Currency:** Prices should be quoted in euro. In case prices are quoted in another currency, the tender would be evaluated by converting the price into euro at the exchange rate prevailing on the date of the opening of the offers. The exchange rate would also be fixed in the contract. For bids in currency other than the euro, the tenderer assumes the risks or opportunities associated with these exchange rate movements.

**2.6.3 Fixed price, VAT excluded:** Prices must be quoted free of all duties, taxes and other charges, including VAT, as the European Union is exempt from such charges under Articles 3 and 4 of the Protocol on the privileges and immunities of the European Union. The amount of VAT may be shown separately.

**2.6.4 Budget allocation:**

(See Official Journal Contract Notice)

## **2.7 Opening of tenders**

(See Official Journal Contract Notice)

## **2.8 Award Committee**

The process of awarding will take place as from October 2015. An awarding committee is to be set up for this purpose.

### **3. TECHNICAL SPECIFICATIONS**

#### **3.1 SCOPE**

The purpose of this invitation to tender is to conclude a Framework service contract with a company capable of delivering financial data on bonds and equity markets, with a focus on volumes and allowing for different degrees of aggregation.

#### **3.2 Framework Service Contract and Deadlines**

**3.2.1** The tenderer whose bid is selected will be offered a Framework Service Contract for a maximum of four years. The preferred date for starting the Framework Service contract is 1<sup>st</sup> April 2016. The duration of the Framework Service Contract and the renewal conditions are determined in Article I.2. of the Framework Service Contract (Annex 4).

**3.2.2** The preferred date for starting the delivery of financial data is 15<sup>th</sup> April 2016. Therefore, as soon as the Framework Service Contract will be signed, the solution proposed by the tenderer should be ready to be implemented. The implementation phase should be short.

**3.2.3** Signature of the Framework Service Contract imposes no obligation on the Commission to purchase. Only implementation of the Framework Service Contract through orders detailing the type of services required by a Directorate General of the Commission is binding on the Commission.

**3.2.4** While DG FISMA is the main consumer of this type of data in the European Commission, the Framework Service Contract will allow DG ECFIN or other Directorates General of the Commission to conclude orders on the Framework Service Contract for the requested services.

#### **3.3 Volume of the contract**

**3.3.1** The Commission cannot commit itself to exact quantity of data to be delivered.

**3.3.2** Please note that the total value of the Framework Service Contract depends on the quantities the Directorates General will order. The Commission cannot at this stage commit itself to exact quantities to be ordered. However, the total of licences is estimated around ten, with a minimum of one licence covering the two types of services as mentioned in sections 3.7.2.1 and 3.7.2.2.

**3.3.3** It should be possible to easily add to this number in the future, by means of a negotiated procedure without prior publication of a contract notice pursuant to Article 104 of the financial regulations<sup>1</sup> and Article 134 (1f) of the Rules of Application.

#### **3.4 Background**

The ongoing market monitoring as well as economic analysis necessary within the framework of policy-making that is done by the Directorate Financial system

surveillance and crisis management in the Directorate General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA-E) requires access to timely and granular financial data. The analysis of different sectors of bond markets done by the Directorate requires extensive and granular data on bond issuance. The analysis covers bank funding markets, corporate bond markets and the coverage of market segments such as CDS markets, markets for state-guaranteed bonds, securitisation markets. In addition to price and yields developments on bond markets, the monitoring of volumes and specific characteristics of bond issuances (ratings, collateral) has gained in importance.

The Directorate Financial system surveillance and crisis management in the Directorate General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA-E) monitors and analyses developments on securities and derivatives markets. The Directorate FISMA is itself not active on financial market but uses data to analyse market developments with focus on the implications for macro-financial stability, macroeconomic performance and public finances. The data serves as input to analysis within the Commission as background for framing policy proposals, for reports to Member States and in economic publications. Moreover, the Directorate General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) contributes to the new European Systemic Risk Board (ESRB), which started to operate as of 2011.

### **3.5 Location**

The users for this service will mainly be in Brussels and Luxembourg.

### **3.6 Objectives**

**3.6.1** The services required by the Commission should not only cover the provision of high-quality financial data but also the IT technical requirements to ensure compatibility with the European Commission internal rules related to IT infrastructure as defined by DIGIT and Directorate of Security (RCIS – Reference configuration service)

**3.6.2** Data obtained via this call for tender will mainly be used by the Commission internally. However, data will also feed (in an aggregated form) various and regular reports published by the Commission throughout the year. The data will also be used for analytical purposes and for the production of rankings or market shares for different market segments (currency, maturity, ranking, origin of issuer, collateral, etc.) (See Framework Contract Article I.8 Exploitation of results.)

**3.6.3** Providers will perform the task requested by the Commission and will carry out their work taking into account existing security requirements and working in cooperation with the relevant Commission departments.

### **3.7 Description of the service requested**

#### **3.7.1 General requirements**

##### 3.7.1.1 Quality of the data

The raw data have to be ideally provided by the market participants directly and their reliability should be checked by the database provider. Transparency on the methodologies used by the provider for the quality check is requested.

##### 3.7.1.2 Data Coverage, Data Breakdown and length of the series

- The database should include information about individual equity and debt issuances, with data being complete and dating back as long as possible (at least 10 years). It should cover European markets as well as global markets and allow for issuers' industry, sector, market or currency breakdowns and analysis, on historical volumes as well as maturity profiles for bonds issued in the past. It would be an advantage if the time series were forward-looking and cover announced issues.
- The data on the transactions must be broad and detailed, giving all the relevant information about the bond or equity issue at the time that it is sold into the primary market. It must also include details of the issuer itself at the time the deal is priced, such as rating, listing, company business description, country of business and incorporation.

##### 3.7.1.3 Customisable Database

- The database must be customisable to meet the requirements of the particular fields or areas we are interested in, and provide details of each transaction at the time the deal is priced. As well as volume tables, it should be also possible to generate rankings at many levels, to see, for instance, how much debt or equity have specific firms issued over a period of time, and get a quick list of the deals that fall into that variable.
- The available tools should be user-friendly with different possible filters but also be efficient, quick and easy to maintain. The underlying software must allow for good aggregation, filtering and download facilities in a flexible manner. The information must be comprehensive and detailed. Preferably, the data should be downloadable into excel files.

#### **3.7.2 Detailed description of the data needed**

##### 3.7.2.1 First type of service: Equity Capital Markets

The Commission should be able to access the following data:

- Initial Public Offerings (IPO's);
- Seasoned Equity Offerings (SEO's)

- Redemptions
- Tracking of announcements and actual submissions

The database must allow the production of a wide variety of specific analysis and rankings allowing data to be analyzed in numerous ways. For example, automate recurring reports on a weekly, monthly or quarterly basis, integrate data with Microsoft Excel.

### 3.7.2.2 Second type of services: Bond markets

The following aggregated data are requested to reinforce the monitoring of developments on bond markets:

- Global bond issuance
  - by country (US, EU Member States, UK, Japan, Others...);
  - by region (US, Euro area, UK, Japan, Others...);
  - by type of issuer (Corporate issuers, Financial institutions, Government, Agency);
  - by rating category (not rated, HY, IG-AAA, AAA);
  - by type of bond (high-yield bonds, covered bonds, retained, guaranteed);
- Global syndicated loans by country, region, industry, purpose
- Global securitization issuance by country, region, type of collateral, retained
- Global CDO and CLO issuance by country, region, collateral

### 3.7.2.3 Currencies

Transformation in common currency needs to be possible. The possibility of conversion into EUR and USD is essential; the possibility to convert in other currencies (GBP, DKK, SEK) would be an asset.

## 3.7.3 IT TECHNICAL REQUIREMENTS

**3.7.3.1** The tenderer is expected to deliver **support** on technical questions or problems as well as on the underlying data: the database support analysts must possess a high degree of industry knowledge and be constantly on hand to provide help in using any of the data provider's systems.

**3.7.3.2** A **helpdesk** with a good response time should be available. Time for problem resolution should not exceed one business day.

The tenderer will provide a phone number and an email address for the helpdesk. The tenderer will provide description of how the helpdesk is structured and the procedures to contact the helpdesk.

**3.7.3.3 Access** via web or alternative interface to requested market data will be considered as an advantage.

Data are to be made available in a Microsoft Excel 2010 format (xls, xlsx), whereas the European Commission will define the exact specifications of the format during contract execution.

In case the tenderer proposes a software or add-in, the latter must be compatible with European Commission Reference configuration: Windows Seven 64 bits and Office 2010 32 bits.

**3.7.3.4 Product training** and presentations must be provided upon request and should be tailored to meet user requirements.

**3.7.3.5** In case of a fall back, the data must be accessible from an **alternative operational site**.



## Declaration of honour on exclusion criteria and absence of conflict of interest

The undersigned (*insert name of the signatory of this form*):

in [his][her] own name (*for a natural person*)

or

representing the following legal person: (*only if the economic operator is a legal person*)

full official name:

official legal form:

full official address:

VAT registration number:

➤ declares that [the above-mentioned legal person][he][she] is not in one of the following situations:

- a) **is bankrupt or being wound up, is having its 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) **has been convicted of an offence concerning professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;**
- c) **has been guilty of grave professional misconduct proven by any means which the contracting authorities can justify including by decisions of the European Investment Bank and international organisations;**
- d) **is not in compliance with all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be performed;**
- e) **has been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such activity is detrimental to the Union's financial interests;**
- f) is subject to an administrative penalty for being guilty of misrepresenting the information required by the contracting authority as a condition of participation in a grant award procedure or another procurement procedure or failing to supply this information, or having been declared to be in serious breach of its obligations under contracts or grants covered by the Union's budget.

- (Only for legal persons other than Member States and local authorities, otherwise delete) declares that the natural persons with power of representation, decision-making or control<sup>2</sup> over the above-mentioned legal entity are not in the situations referred to in b) and e) above;
- declares that [the above-mentioned legal person][he][she]:
  - g) has no 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 affinity, family, emotional life or any other shared interest;
  - h) will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
  - i) 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 award of the contract;
  - j) provided accurate, sincere and complete information to the contracting authority within the context of this procurement procedure ;
- acknowledges that [the above-mentioned legal person][he][she] may be subject to administrative and financial penalties<sup>3</sup> if any of the declarations or information provided prove to be false.

In case of award of contract, the following evidence shall be provided upon request and within the time limit set by the contracting authority:

**For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the tenderer is a legal person and the national legislation of the country in which the tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the tenderer.**

**For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.**

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not 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.

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<sup>2</sup> This covers the company directors, members of the management or supervisory bodies, and cases where one natural person holds a majority of shares.

<sup>3</sup> As provided for in Article 109 of the Financial Regulation (EU, Euratom) 966/2012 and Article 145 of the Rules of Application of the Financial Regulation

If the tenderer is a legal person, information on the natural persons with power of representation, decision making or control over the legal person shall be provided only upon request by the contracting authority.

Full name

Date

Signature

**COMPULSORY REPLY FORM FOR THE FINANCIAL PROPOSAL  
CALL FOR TENDER NO 2015 ECFIN 014/B  
DATA SUPPLY SERVICES: BOND AND EQUITY DATA**

**NB:**

**1) Value added TAX.**

Tenderers are required to indicate prices exclusive of VAT. Tenderers subject to VAT in Portugal and the Netherlands, which operate a system of VAT reimbursement to the Commission, are required to indicate the VAT rate applicable to the fixed costs quoted: Applicable VAT RATE.....%

2) Tenderers are reminded to provide sufficient information to enable their offer to be assessed on the basis of the award criteria.

**NAME OF TENDERER:**

.....

**1) Price schedule No. 1 ( MANDATORY)**

**Object:** The tenderer is asked to give a price schedule for four years for one LICENCE as detailed in Point 3.7.2.

	Initial Year For 1 licence	Second Year For 1 licence	Third Year For 1 licence	Fourth Year For 1 licence	TOTAL For 1 licence <sup>4</sup>
First type of service (Equity Capital Markets) and Second type of service (Bond Markets)					

..... (Name)  
..... (Signature)  
..... (Date)

\_\_\_\_\_

<sup>4</sup> For the evaluation purpose, the total Amount for one licence will be taken into consideration in the formula under the parameter "price of tender" mentioned at point 2.4.7 - "Score of Tender".

**2) Price schedule No. 2 ( MANDATORY)**

**Object:** The tenderer is asked to give a price schedule for four years for any additional orders for DG ECFIN users or for users from any other Directorates General of the European Commission as detailed in sections 3.7.2. of the specifications.

	Initial Year For any additional licence (price per licence)	Second Year For any additional licences (price per licence)	Third Year For any additional licences (price per licence)	Fourth Year For any additional licences (price per licence)	<b>TOTAL</b> For any additional licences
First type of service (Equity Capital Markets) and Second type of service (Bond Markets)					

..... (Name)  
 ..... (Signature)  
 ..... (Date)

## IT TECHNICAL REQUIREMENTS QUESTIONNAIRE

**Call for tender N° 2015 ECFIN 014/B**  
**Open Procedure: Title: Data Supply Services - Bonds and Equity Data**

**NAME OF THE TENDERER:**-----

The questionnaire has been broken into two parts.

The first part contains the compulsory requirements to which the contractor must be able to give a positive response. These requirements are classed as selection criteria (as described in Point 2.3.2.2 and any negative response will mean the tenderer will not be selected. Any lack of answer will be considered as negative answer.

The second part of the questionnaire contains optional IT requirements which will be evaluated as described in Points 2.4.2, 2.5.2, 3.6, 3.7.1.3 and 3.7.3 with respect to award.

### **PART 1 : SELECTION CRITERIA**

#### **1.1) Program - General**

	<b>YES</b>	<b>NO</b>
Is your program compatible with Office 2010 32 bits? (Yes, mandatory)		
Is your program compatible with MS Windows Seven 64 bits? (Yes, mandatory)		

#### **1.2) Connection**

	<b>YES</b>	<b>NO</b>
Is the program compatible with a proxy connection with login and password? (Yes, mandatory)		

### 1.3) User Interface

	YES	NO
Do you provide at least one user interface? (Yes, mandatory)		
If yes, is it (are they) your own interface(s)?		

### 1.4) Training and Technical Support

Does your support team offer installation assistance? (Yes, mandatory)		
Does your support team offer a helpdesk service to fix problems? (Yes, mandatory)		
Have you got a <b>Hotline</b> for: - technical problems (Yes, mandatory) - product utilization (Yes, mandatory)		

## PART 2 : AWARD CRITERIA

### 2.1) Installation

	YES	NO
Do you use MSI (Microsoft Installer) for the installation of your product?		
Is it possible to install your product with a profile other than that of the user?		
Are some network alternatives installing features available to ease the maintenance work?		
Is it possible to install your product successfully without administrator rights?		
If you have an Excel Add-in, can the installation be done automatically?		
If yes, does it work at security level "medium" as set in the Excel Tools/Macro/Security menu?		
Does it need a plug-in for <b>Internet Explorer or Firefox</b> to be installed on each computer?		
Is your product compatible with Microsoft App-V (Application Virtualization)?		

#### Comments:

## 2.2) Licensing

	YES	NO
Do you offer a concurrent licence system (i.e. a licence system where a pool of users shares a group of licences)?		
If yes, is it compatible with cluster based on Windows 2012 and also with the concept of virtualised server (Hyper-V or VMware)?		
Do you offer a site licence?		
If yes, could you specify the coverage of your site licence?		
Is each licence specifically linked to a PC or an IP address?		
If yes, is the licence always compatible with the installation of a new PC?		
Is each licence specifically linked to a User?		
If yes, the licence can be move to another user without your intervention?		

### Comments:

## 2.3) Program

### 2.3.1) General

	YES	NO
Is it compatible with Excel services in MS Sharepoint 2010/2013?		
Can it run on a Windows Terminal Server 2012 (used by teleworkers)?		
If yes, what is the licence system using on terminal server?		
Is the program compatible with a roaming profile?		
Is it compatible with Internet Explorer version of at least 9 or FireFox version of at least 31.6?		
Does it use the .net framework from Microsoft?		
If yes, what version?		
Does it use Sun Java virtual machines?		
If yes, what version?		

### Comments:



### 2.3.2) Connection

	<b>YES</b>	<b>NO</b>
Does the access to your database use the standard port (http:80)?		
Does it need specific ports?		
If yes which ones?		
Do you need to add your website to the list of trusted sites in Internet explorer or change permissions in FireFox?		

**Can you briefly describe the connection used by your end-user product to interface with your database (protocol, connection type, etc)?**

## 2.4) User Interface

	<b>YES</b>	<b>NO</b>
If yes, is it (are they) your own interface(s)?		
Do you have a user interface not requiring Excel to be started?		

**Please describe (results, display options, graphics features, integration Microsoft's Office suite, personalization options, etc.):**

**2.5) Excel Add-in**

	<b>YES</b>	<b>NO</b>
Do you provide your own Add-in?		
Is your Excel Add-in compliant with Office 2003 and 2010 (32 bits version) and certified by a commercial certification authority?		
If yes, please give the name of the certification authority:		
Do you have dynamic links to the database that can be refreshed?		
If yes, when?		

**Comments:**

**2.6) Training and Technical Support**

	<b>YES</b>	<b>NO</b>
Does your support team offer software training for end-users and in-house maintenance staff?		
Do you propose 'On-site' assistance if needed		
Does your support team assist the end-users in quickly finding data?		
Do you have documentation – “help on-line”		
Does your company have a specific service level agreement (SLA)?		

**Comments:**

- 1) If you have a Hotline, what are the opening times it is available?
- 2) If you have a SLA, in case of a technical problem, can you indicate the average response time?

## 2.7) Other features

<i>Analytical features</i>	<b>YES</b>	<b>NO</b>
Do your products provide analytical functions/tools (Smoothing, Trend, Seasonal Adjustment, Regression, etc...)? If yes, please enumerate and describe them.		
Are these analytical functions available inside the: User interface only Excel Add-in only Both (the Excel add-in and the proposed user interface)		
<i>Searching &amp; Navigation</i>		
What concepts are available to the user for finding specific series? e.g. country, domain, variable, frequency etc. Please specify		
Can time-series be found using metadata search criteria?		
Can queries be performed across multiple data concepts (countries, topics, ...)?		
<i>Graphics</i>		
What types of graphs do you offer?		

### **Comments:**



## FRAMEWORK SERVICE CONTRACT

FRAMEWORK CONTRACT NUMBER – *[complete]*

The European Union (hereinafter referred to as "the Union"), represented by the [European Commission] (hereinafter referred to as "the [lead] contracting authority") [and the following contracting authorities *[insert relevant list]* (hereinafter collectively referred to as "the contracting authority")], represented for the purposes of the signature of this framework contract by *[forename, surname, function, department]*,

on the one part, and

*[full official name]*

*[official legal form]*

*[statutory registration number]*

*[full official address ]*

*[VAT registration number]*

[(hereinafter referred to as 'the contractor'),][represented for the purposes of the signature of this framework contract by *[forename, surname and function,]*]

[The parties identified above and hereinafter collectively referred to as the 'the contractor' shall be jointly and severally liable vis-à-vis the contracting authority for the performance of this framework contract.]

on the other part,

HAVE AGREED

to the **special conditions**, the **general conditions for service framework contracts**, the [model order form] [and] [model specific contract] and the following annexes:

**Annex I** – Tender specifications (reference No [complete] of [insert date])

**Annex II** – Contractor's tender (reference No [complete] of [insert date])

[Other annexes]

which form an integral part of this framework contract (hereinafter referred to as “the FWC”).

- The terms set out in the special conditions shall take precedence over those in the other parts of the FWC.
- The terms set out in the general conditions shall take precedence over those in the model order form and model specific contract
- The terms set out in the model order form and model specific contract shall take precedence over those in the other annexes.
- The terms set out in the tender specifications (Annex I) shall take precedence over those in the tender (Annex II).
- The terms set out in the framework contract shall take precedence over those in the order forms and specific contracts.
- [The terms set out in the specific contracts shall take precedence over those in the requests for services.
- The terms set out in the requests for services shall take precedence over those in the specific tenders. ]

## **I – SPECIAL CONDITIONS**

### **Article I.1 – Subject matter**

- I.1.1** The subject matter of the FWC is Data Supply Services – Bond and Equity Data
- I.1.2** Signature of the FWC imposes no obligation on the contracting authority to purchase. Only performance of the FWC through order forms or specific contracts is binding on the contracting authority.

### **1.7 Article I.2 – Entry into force and duration**

- I.2.1** The FWC shall enter into force on the date on which it is signed by the last party
- I.2.2** Under no circumstances may performance commence before the date on which the FWC enters into force. Execution of the tasks may under no circumstances begin before the date on which the order form or specific contract enters into force.
- I.2.3** The FWC is concluded for a period of 12 months with effect from the date on which it enters into force. Unless otherwise specified, all periods specified in the FWC are calculated in calendar days.
- I.2.4** The order forms or specific contracts shall be signed by both parties before the FWC expires.

The FWC shall continue to apply to such order forms and specific contracts after its expiry. They shall be executed no later than six months after its expiry.

### **I.2.5 FWC renewal<sup>5</sup>**

The FWC shall be renewed automatically up to three times under the same conditions, unless written notification to the contrary is sent by one of the parties and received by the other three months 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 maximum amount of the FWC shall be EUR [*amount in figures and in word*]. However, this must in no way be construed as a commitment on the contracting authority to purchase for the maximum amount.

The maximum prices of the services shall be:as listed in Annex II.

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<sup>5</sup> The total duration of the FWC may not exceed four years, save in exceptional cases justified in particular by the subject of the FWC.

## **Article I.4 – Payment arrangements and performance of the framework contract<sup>6</sup>**

### **I.4.1 Single framework contract**

Within 20 working days of a specific contract being sent by the contracting authority to the contractor, the contracting authority shall receive it back, duly signed and dated.

The period allowed for the execution of the tasks shall start to run on the date the contractor signs the order form, unless a different date is indicated on the form

### **I.4.2 – Start of Services**

The invoicing of the services under the FWC can only be done upon signature of the order form and upon the services being made available to the Contracting Authority.

### **I.4.3 Interim payments**

The contractor shall submit an invoice each quarterly for an interim payment equal to 25% of the total price referred to in the relevant order form or specific contract.

The contacting authority shall make the payment within 30 days from receipt of the invoice.

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

The contractor shall submit an invoice for payment of the balance.

The contacting authority shall make the payment within 30 days from receipt of the invoice.

## **Article I.5 – Bank account**

Payments shall be made to the contractor's bank account denominated in [euro][*insert local currency where the receiving country does not allow transactions in EUR*], identified as follows:

Name of bank:

Full address of branch:

Exact designation of account holder:

Full account number including [bank] codes:

[IBAN<sup>7</sup> code:]

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<sup>6</sup> The insertion of pre-financing and interim payment clauses is optional but there must always be provision for payment of the balance.

<sup>7</sup> BIC or SWIFT code for countries with no IBAN code.



## **Article I.6 – Communication details and data controller**

For the purpose of Article II.6, the data controller shall be [*insert name of entity*]

Communications shall be sent to the following addresses:

### Contracting authority – For contractual Matters:

European Commission

Directorate-General [*complete*]

[Directorate [*complete*]]

[Unit [*complete*]]

[*Postcode and city*]

Email: [*insert functional mailbox*]

Contracting authority - For Invoicing

European Commission

Directorate-General Economic and Financial Affairs

Directorate R

Attn Head of Unit R3

CHAR 13/56

B-1049 Brussels, Belgium

Note : Only original invoices via postal system are accepted.

### Contractor:

[*Full name*]

[*Function*]

[*Company name*]

[*Full official address*]

Email: [*complete*]

## **Article I.7 – Applicable law and settlement of disputes**

- I.7.1** The FWC shall be governed by Union law, complemented, where necessary, by the law of Belgium.
- I.7.2** Any dispute between the parties in relation to the interpretation, application or validity of the FWC which cannot be settled amicably shall be brought before the courts of Brussels.

## **Article I.8 - Exploitation of the results of the FWC**

### **I.8.1 Modes of exploitation**

In accordance with Article II.10.2 whereby the Union acquires ownership of the results as defined in the tender specifications (Annex I), these results may be used for any of the following purposes:

- [(a) use for its own purposes:
  - (i) making available to the staff of the contracting authority
  - (ii) making available to the persons and entities working for the contracting authority or cooperating with it, including contractors, subcontractors whether legal or natural persons, Union institutions, agencies and bodies, Member States' institutions
  - (iii) installing, uploading, processing
  - (iv) arranging, compiling, combining, retrieving
  - (v) copying, reproducing in whole or in part and in unlimited number of copies
  
- (b) distribution to the public:
  - (i) publishing in hard copies
  - (ii) publishing in electronic or digital format
  - (iii) publishing on the internet as a downloadable/non-downloadable file
  - (iv) broadcasting by any kind of technique of transmission
  - (v) public presentation or display
  - (vi) communication through press information services
  - (vii) inclusion in widely accessible databases or indexes
  - (viii) otherwise in any form and by any method
  
- (c) modifications by the contracting authority or by a third party in the name of the contracting authority:
  - (i) shortening
  - (ii) summarizing
  - (iii) modifying of the content
  - (iv) making technical changes to the content:
    - necessary correction of technical errors
    - adding new parts or functionalities
    - changing functionalities
    - providing third parties with additional information concerning the result (e.g. source code) with a view of making modifications
  - (v) addition of new elements, paragraphs titles, leads, bolds, legend, table of content, summary, graphics, subtitles, sound, etc.

- (vi) preparation in audio form, preparation as a presentation, animation, pictograms story, slide-show, public presentation etc.
- (vii) extracting a part or dividing into parts
- (viii) use of a concept or preparation of a derivative work
- (ix) digitisation or converting the format for storage or usage purposes
- (x) modifying dimensions
- (xi) translating, inserting subtitles, dubbing in different language versions:
  - English, French, German
  - all official languages of EU
  - languages used within EU
  - languages of candidate countries
  - *[list of name other languages]*

(d) the modes of exploitation listed in article II.10.4

[(e) rights to authorise, license, or sub-license in case of licensed pre-existing rights, the modes of exploitation set out in any of the points (a) to (d) to third parties.

Where the contracting authority becomes aware that the scope of modifications exceeds that envisaged in the contract, the contracting authority shall consult the contractor. Where necessary, the contractor shall in turn seek the agreement of any creator or other right holder. The contractor shall reply to the contracting authority within one month and shall provide its agreement, including any suggestions of modifications, free of charge. The creator may refuse the intended modification only when it may harm his honour, reputation or distort integrity of the work.

### **I.8.2 Pre-existing rights and transmission of rights**

All pre-existing rights shall be licensed to the Union in accordance with Article II.10.3.

The contractor shall provide to the contracting authority a list of pre-existing rights and third parties' rights including its personnel, creators or other right holders as provided for in Article II.10.5.

### **Article I.9 – Termination by either party**

Either party may, unilaterally and without being required to pay compensation, terminate either the FWC or the FWC and order forms or specific contracts by formally notifying the other party and by giving one month's notice. Should the contracting authority terminate the FWC, order forms or specific contracts, the contractor shall only be entitled to payment corresponding to the part-performance of the services ordered before the termination date. The first paragraph of Article II.14.3 shall apply.

### **Article I.10 – Inter-institutional framework contract**

Not applicable

**[Article I.11 – Other special conditions**

Not Applicable

**SIGNATURES**

For the contractor,

For the contracting authority,

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

[*forename/surname/function*]

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

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

Done at [Brussels], [date]

Done at [Brussels], [date]

In duplicate in English.

## **II – GENERAL CONDITIONS FOR SERVICE FRAMEWORK CONTRACTS**

### **Article II. 1 – Performance of the FWC**

- II.1.1** The contractor shall perform the FWC to the highest professional standards.
- II.1.2** The contractor shall be solely responsible for taking the necessary steps to obtain any permit or licence required for performance of the FWC 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.4 any reference made to the contractor's personnel in the FWC shall relate exclusively to individuals involved in the performance of the FWC.
- II.1.4** The contractor must ensure that the personnel performing the FWC possesses the professional qualifications and experience required for the execution of the tasks assigned to it.
- II.1.5** The contractor shall neither represent the contracting authority nor behave in any way that would give such an impression. The contractor shall inform third parties that it does not belong to the European public service.
- II.1.6** The contractor shall be solely responsible for the personnel who executes the tasks assigned to him.

The contractor shall stipulate the following employment or service relationships with its personnel:

- (a) personnel executing the tasks assigned to the contractor may not be given orders directly by the contracting authority;
  - (b) the contracting authority may not under any circumstances be considered to be the employer of the personnel referred to in point (a) and the personnel shall undertake not to invoke against the contracting authority any right arising from the contractual relationship between the contracting authority and the contractor.
- II.1.7** In the event of disruption resulting from the action of one of the contractor's personnel working on the contracting authority's premises or in the event that the expertise of one of the contractor's personnel fails to correspond to the profile required by the FWC, the contractor shall replace him without delay. The contracting authority shall have the right to make a reasoned request for the replacement of any such personnel. The replacement personnel must have the necessary qualifications and be capable of performing the FWC 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 personnel.
- II.1.8** Should the execution of the tasks be directly or indirectly hampered, either partially or totally, by any unforeseen event, action or omission, the contractor shall immediately and on its own initiative record it and report it to the contracting authority. 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 its obligations under this FWC. In such an event the contractor shall give priority to solving the problem rather than determining liability.

- II.1.9** Should the contractor fail to perform its obligations under the FWC or order form or specific contract, the contracting authority may - without prejudice to its right to terminate the FWC order form or specific contract or - reduce or recover payments in proportion to the scale of the unperformed obligations. In addition, the contracting authority may claim compensation or impose liquidated damages in accordance with Article II.12.

## **Article II.2 – Means of communication**

- II.2.1** Any communication relating to the FWC or to its performance shall be made in writing and shall bear the FWC number, and if applicable the order form or specific contract number. Any communication is deemed to have been made when it is received by the receiving party unless otherwise provided for in this FWC.

- II.2.2** Electronic communication shall be deemed to have been received by the parties on the day of dispatch of that communication provided it is sent to the addressees listed in Article I.6. Without prejudice to the preceding, if the sending party receives a message of non-delivery to or of absence of the addressee, it shall make every effort to ensure the actual receipt of such communication by the other party.

Electronic communication shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.

- II.2.3** Mail sent using the postal services is deemed to have been received by the contracting authority on the date on which it is registered by the department responsible referred to in Article I.6.

Any formal notification shall be made by registered mail with return receipt or equivalent, or by equivalent electronic means.

## **Article II. 3 – Liability**

- II.3.1** The contractor shall be solely responsible for complying with any legal obligations incumbent on it.

- II.3.2** The contracting authority shall not be held liable for any damage caused or sustained by the contractor, including any damage caused by the contractor to third parties during or as a consequence of performance of the FWC, except in the event of wilful misconduct or gross negligence on the part of the contracting authority.

- II.3.3** The contractor shall be held liable for any loss or damage sustained by the contracting authority in performance of the FWC, including in the event of subcontracting, and for any claim by a third party, but only to an amount not exceeding three times the total amount of the relevant order form or specific contract. Nevertheless, if the damage or loss is caused by the gross negligence or

wilful misconduct of the contractor or of its personnel or subcontractors, the contractor shall have unlimited liability for the amount of the damage or loss.

**II.3.4** The contractor shall indemnify and hold the Union harmless for all damages and costs incurred due to any claim. The contractor shall provide compensation in the event of any action, claim or proceeding brought against the contracting authority by a third party as a result of damage caused by the contractor during the performance of the FWC. In the event of any action brought by a third party against the contracting authority in connection with the performance of the FWC including any alleged breach of intellectual property rights, the contractor shall assist the contracting authority. Such expenditure incurred by the contractor may be borne by the contracting authority.

**II.3.5** The contractor shall take out an insurance policy against risks and damage relating to the performance of the FWC if required by the relevant applicable legislation. It 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 contracting authority should it so request.

#### **Article II. 4 - Conflict of interests**

**II.4.1** The contractor shall take all the necessary measures to prevent any situation of conflict of interest. Such situation arises where the impartial and objective performance of the FWC is compromised for reasons involving economic interest, political or national affinity, family or emotional ties, or any other shared interest.

**II.4.2** Any situation constituting or likely to lead to a conflict of interest during the performance of the FWC shall be notified to the contracting authority in writing without delay. The contractor shall immediately take all the necessary steps to rectify the situation. The contracting authority reserves the right to verify that the steps taken are appropriate and may require that additional steps be taken within a specified deadline.

**II.4.3** The contractor declares that it 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, when such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, in so far as it serves as an incentive or reward relating to the performance of the FWC.

**II.4.4** The contractor shall pass on all the relevant obligations in writing to its personnel and to any natural person with the power to represent it or take decisions on its behalf and ensure that it is not placed in a situation which could give rise to conflicts of interest. The contractor shall also pass on all the relevant obligations in writing to third parties involved in the performance of the FWC including subcontractors.

#### **Article II.5 – Confidentiality**

**II.5.1.** The contracting authority and the contractor shall treat with confidentiality any information and documents, in any form, disclosed in writing or orally in relation to the performance of the FWC and identified in writing as confidential.

The contractor shall:

- (a) not use confidential information and documents for any purpose other than fulfilling its obligations under the FWC, order form or specific contract without prior written agreement of the contracting authority;
- (b) ensure the protection of such confidential information and documents with the same level of protection it uses to protect its own confidential information, but in no case any less than reasonable care;
- (c) not disclose directly or indirectly confidential information and documents to third parties without prior written agreement of the contracting authority.

**II.5.2** The confidentiality obligation set out in Article II.5.1 shall be binding on the contracting authority and the contractor during the performance of the FWC and for five years starting from the date of the payment of the balance unless:

- (a) the disclosing party agrees to release the other party from the confidentiality obligation earlier;
- (b) the confidential information becomes public through other means than in breach of the confidentiality obligation, through disclosure by the party bound by that obligation;
- (c) the disclosure of the confidential information is required by law.

**II.5.3** The contractor shall obtain from any natural person with the power to represent it or take decisions on its behalf, as well as from third parties involved in the performance of the FWC, order form or specific contract an undertaking that they will comply with the confidentiality obligation set out in Article II.5.1.

## **Article II.6– Processing of personal data**

**II.6.1** Any personal data included in the FWC shall be processed pursuant to Regulation (EC) 45/2001 of the European Parliament and of the Council of 18 December 2000 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. Such data shall be processed by the data controller solely for the purposes of the performance, management and monitoring of the FWC without prejudice to its possible transmission to the bodies charged with monitoring or inspection tasks in application of Union law.

**II.6.2** The contractor shall have the right to access its personal data and the right to rectify any such data. The contractor should address any queries concerning the processing of its personal data to the data controller.

**II.6.3** The contractor shall have right of recourse at any time to the European Data Protection Supervisor.

**II.6.4** Where the FWC requires the processing of personal data by the contractor, the contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data and the means by which the data subject may exercise his rights.



- II.6.5** The contractor shall grant personnel access to the data to the extent strictly necessary for the performance, management and monitoring of the FWC.
- II.6.6** The contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:
- (a) prevent any unauthorised person from gaining access to computer systems processing personal data, and especially:
    - (i) unauthorised reading, copying, alteration or removal of storage media;
    - (ii) unauthorised data input, as well as any unauthorised disclosure, alteration or erasure of stored personal data;
    - (iii) unauthorised use of data-processing systems by means of data transmission facilities;
  - (b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
  - (c) record which personal data have been communicated, when and to whom;
  - (d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the contracting authority;
  - (e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
  - (f) design its organisational structure in such a way that it meets data protection requirements.

## **Article II. 7 – Subcontracting**

- II.7.1** The contractor shall not subcontract without prior written authorisation from the contracting authority nor cause the FWC to be de facto performed by third parties.
- II.7.2** Even where the contracting authority authorises the contractor to subcontract to third parties, it shall nevertheless remain bound by its contractual obligations and shall be solely responsible for the proper performance of this FWC.
- II.7.3** The contractor shall make sure that the subcontract does not affect rights and guarantees granted to the contracting authority by virtue of this FWC, notably by Article II.18.

## **Article II. 8 – Amendments**

- II.8.1** Any amendment to the FWC or order form or specific contract shall be made in writing before fulfilment of all contractual obligations. An order form or a specific contract may not be deemed to constitute an amendment to the FWC.
- II.8.2** The amendment may not have the purpose or the effect of making changes to the FWC or to order forms or specific contracts which might call into question the

decision awarding the FWC, order form or specific contract or result in unequal treatment of tenderers or contractors.

## **Article II. 9 – Assignment**

**II.9.1** The contractor shall not assign the rights, including claims for payments, and obligations arising from the FWC, in whole or in part, without prior written authorisation from the contracting authority.

**II.9.2** In the absence of such authorisation, or in the event of failure to observe the terms thereof, the assignment of rights or obligations by the contractor shall not be enforceable against the contracting authority and shall have no effect on it.

## **Article II. 10 – Ownership of the results - Intellectual and industrial property rights**

### **II.10.1 Definitions**

In this FWC the following definitions apply:

(1) 'results' means any intended outcome of the performance of the FWC which is delivered and finally accepted by the contracting authority.

(2) 'creator' means any natural person who contributed to the production of the result and includes personnel of the contracting authority or a third party.

(3) 'pre-existing rights' means any industrial and intellectual property rights, including background technology, which exist prior to the contracting authority or the contractor ordering them for the purpose of the FWC performance and include rights of ownership and use by the contractor, the creator, the contracting authority and any other third parties.

### **II.10.2 Ownership of the results**

The ownership of the results shall be fully and irrevocably acquired by the Union under the FWC including any rights in any of the results listed in the FWC and order forms or specific contracts, including copyright and other intellectual or industrial property rights, and all technological solutions and information contained therein, produced in performance of the FWC. The contracting authority may exploit them as stipulated in this FWC or order forms or specific contracts. All the rights shall be acquired by the Union from the moment the results are delivered by the contractor and accepted by the contracting authority. Such delivery and acceptance are deemed to constitute an effective assignment of rights from the contractor to the Union.

The payment of the price as set out in the order forms or specific contracts is deemed to include any fees payable to the contractor in relation to the acquisition of ownership of rights by the Union including all forms of use of the results.

The acquisition of ownership of rights by the Union under this FWC covers all territories worldwide.

Any intermediary sub-result, raw data, intermediary analysis made available by the contractor cannot be used by the contracting authority without the written consent of the

contractor, unless the FWC or specific contract or order form explicitly provides for it to be treated as a self-contained result.

### II.10.3 Licensing of pre-existing rights

The Union shall not acquire ownership of the pre-existing rights.

The contractor shall license the pre-existing rights on a royalty-free, non-exclusive and irrevocable basis to the Union which may use the pre-existing right as foreseen in Article I.8.1 or in order forms or specific contracts. All the pre-existing rights shall be licensed to the Union from the moment the results were delivered and accepted by the contracting authority.

The licensing of pre-existing rights to the Union under this FWC covers all territories worldwide and is valid for the whole duration of intellectual property rights protection.

### II.10.4 Modes of exploitation

The Union shall acquire ownership of each of the results produced as an outcome of the FWC which may be used for any of the following purposes:

- (a) giving access upon individual requests without the right to reproduce or exploit, as provided for by Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents;
- (b) storage of the original and copies made in accordance with this FWC or specific contract or order form;
- (c) archiving in line with the document management rules applicable to the contracting authority.

### II.10.5 Identification and evidence of granting of pre-existing rights and rights of third parties

When delivering the results, the contractor shall warrant that they are free of rights or claims from creators and third parties including in relation to pre-existing rights, for any use envisaged by the contracting authority. This does not concern the moral rights of natural persons.

The contractor shall establish to that effect a list of all pre-existing rights and rights of creators and third parties on the results of this FWC or parts thereof. This list shall be provided no later than the date of delivery of the final results.

In the result the contractor shall clearly point out all quotations of existing textual works. The complete reference should include as appropriate: name of the author, title of the work, date and place of publication, date of creation, address of publication on internet, number, volume and other information which allows the origin to be easily identified.

Upon request by the contracting authority, the contractor shall provide evidence of ownership or rights to use all the listed pre-existing rights and rights of third parties except for the rights owned by the Union.

This evidence may refer, inter alia, to rights to: parts of other documents, images, graphs, tables, data, software, technical inventions, know-how etc. (delivered in paper, electronic

or other form), IT development tools, routines, subroutines and/or other programs ("background technology"), concepts, designs, installations or pieces of art, data, source or background materials or any other parts of external origin.

The evidence shall include, as appropriate:

- (a) the name and version number of a software product;
- (b) the full identification of the work and its author, developer, creator, translator, data entry person, graphic designer, publisher, editor, photographer, producer;
- (c) a copy of the licence to use the product or of the agreement granting the relevant rights to the contractor or a reference to this licence;
- (d) a copy of the agreement or extract from the employment contract granting the relevant rights to the contractor where parts of the results were created by its personnel;
- (e) the text of the disclaimer notice if any.

Provision of evidence does not release the contractor from its responsibilities in case it is found that it does not hold the necessary rights, regardless of when and by whom this fact was revealed.

The contractor also warrants that it possesses the relevant rights or powers to execute the transfer and that it has paid or has verified payment of all due fees including fees due to collecting societies, related to the final results.

#### II.10.6 Creators

By delivering the results the contractor warrants that the creators undertake not to oppose that their names be recalled when the results are presented to the public and confirms that the results can be divulged. Names of authors shall be recalled on request in the manner communicated by the contractor to the contracting authority.

The contractor shall obtain the consent of creators regarding the granting of the relevant rights and be ready to provide documentary evidence upon request.

#### **II.10.7 Persons appearing in photographs or films**

If natural, recognisable persons appear in a result or their voice is recorded the contractor shall submit a statement of these persons (or of the persons exercising parental authority in case of minors) where they give their permission for the described use of their image or voice on request by the contracting authority. This does not apply to persons whose permission is not required in line with the law of the country where photographs were taken, films shot or audio records made.

#### **II.10.8 Copyright for pre-existing rights**

When the contractor retains pre-existing rights on parts of the results, reference shall be inserted to that effect when the result is used as set out in Article I.8.1 with the following disclaimer: © - year – European Union. All rights reserved. Certain parts are licensed under conditions to the EU.

#### **II.10.9 Visibility of Union funding and disclaimer**

When making use of the results, the contractor shall declare that they have been produced within a contract with the Union and that the opinions expressed are those of the contractor

only and do not represent the contracting authority's official position. The contracting authority may waive this obligation in writing.

## **Article II. 11 – Force majeure**

- II.11.1** 'Force majeure' means any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations under the FWC, which was not attributable to error or negligence on their part or on the part of subcontractors and which proves to be inevitable in spite of exercising due diligence. Any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure, as well as labour disputes, strikes or financial difficulties, cannot be invoked as force majeure.
- II.11.2** A party faced with force majeure shall formally notify the other party without delay, stating the nature, likely duration and foreseeable effects.
- II.11.3** The party faced with force majeure shall not be held in breach of its contractual obligations if it has been prevented from fulfilling them by force majeure. Where the contractor is unable to fulfil its contractual obligations owing to force majeure, it shall have the right to remuneration only for the tasks actually executed.
- II.11.4** The parties shall take all the necessary measures to limit any damage due to force majeure.

## **Article II. 12 – Liquidated damages**

The contracting authority may impose liquidated damages should the contractor fail to complete its contractual obligations, also with regard to the required quality level, according to the tender specifications.

Should the contractor fail to perform its contractual obligations within the time limits set by the FWC or the relevant order form or specific contract, then, without prejudice to the contractor's actual or potential liability or to the contracting authority's right to terminate the FWC or the relevant order form or specific contract, the contracting authority may impose liquidated damages for each and every calendar day of delay according to the following formula:

$$0.3 \times (V/d)$$

*V* is the price of the relevant purchase;

*d* is the duration specified in the relevant order form or specific contract or, failing that, the period between the date specified in Article I.4.1 and the date of delivery or performance specified in the relevant order form or specific contract, expressed in calendar days

The contractor may submit arguments against this decision within 30 days of receipt of the formal notification. In the absence of a reaction on its part or of written withdrawal by the contracting authority within 30 days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable.

The parties 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 incurred due to failure to fulfil obligations which may be reasonably anticipated.

## **Article II. 13 – Suspension of the performance of the FWC**

### **II.13.1 Suspension by the contractor**

The contractor may suspend the performance of the FWC or order form or specific contract or any part thereof if a case of force majeure makes such performance impossible or excessively difficult. The contractor shall inform the contracting authority about the suspension without delay, giving all the necessary reasons and details and the envisaged date for resuming the performance of the FWC, order form or specific contract.

Once the circumstances allow resuming performance, the contractor shall inform the contracting authority immediately, unless the contracting authority has already terminated the FWC, order form or specific contract.

### **II.13.2 Suspension by the contracting authority**

The contracting authority may suspend the performance of the FWC or order form or specific contract or any part thereof:

- (a) if the FWC or order form or specific contract award procedure or the performance of the FWC prove to have been subject to substantial errors, irregularities or fraud;
- (b) in order to verify whether presumed substantial errors, irregularities or fraud have actually occurred.

Suspension shall take effect on the day the contractor receives formal notification, or at a later date where the notification so provides. The contracting authority shall as soon as possible give notice to the contractor to resume the service suspended or inform the contractor that it is proceeding with termination of the FWC or order form or specific contract. The contractor shall not be entitled to claim compensation on account of suspension of the FWC or order form or specific contract or of part thereof.

## **Article II. 14 – Termination of the FWC**

### **II.14.1 Grounds for termination**

The contracting authority may terminate the FWC, an order form or a specific contract respectively in the following circumstances:

- (a) if a change to the contractor's legal, financial, technical or organisational or ownership situation is likely to affect the performance of the FWC or order form or specific contract substantially or call into question the decision to award the FWC;
- (b) if execution of the tasks under a pending order form or a specific contract has not actually commenced within 15 days of the date foreseen, and the new date proposed, if any, is considered unacceptable by the contracting authority, taking into account article II.8.2;

- (c) if the contractor does not perform the FWC or an order form or specific contract as established in the tender specifications or request for service or fails to fulfil another substantial contractual obligation; termination of three or more order forms or specific contracts on this ground shall constitute ground for termination of the FWC;
- (d) in the event of force majeure notified in accordance with article II.11 or if the performance of the FWC or order form or specific contract has been suspended by the contractor as a result of force majeure, notified in accordance with article II.13, where either resuming performance is impossible or the modifications to the FWC or order form or specific contract might call into question the decision awarding the FWC or order form or specific contract, or result in unequal treatment of tenderers or contractors;
- (e) if the contractor is declared bankrupt, is being wound up, is having its 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;
- (f) if the contractor or any natural person with the power to represent it or take decisions on its behalf has been found guilty of professional misconduct proven by any means;
- (g) if the contractor is not in compliance with its 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 it is established or with those of the country of the applicable law of this FWC or those of the country where the FWC is to be performed;
- (h) if the contracting authority has evidence that the contractor or any natural persons with the power to represent it or take decisions on its behalf have committed fraud, corruption, or are involved in a criminal organisation, money laundering or any other illegal activity detrimental to the Union's financial interests;
- (i) if the contracting authority has evidence that the contractor or any natural persons with the power to represent it or take decisions on its behalf have committed substantial errors, irregularities or fraud in the award procedure or the performance of the FWC, including in the event of submission of false information;
- (j) if the contractor is unable, through its own fault, to obtain any permit or licence required for performance of the FWC or order form or specific contract;
- (k) if the needs of the contracting authority change and it no longer requires new services under the FWC;
- (l) when due to the termination of the FWC with one or more of the contractors there is no minimum required competition within the multiple framework contract with reopening of competition.

## II.14.2 Procedure for termination

When the contracting authority intends to terminate the FWC or order form or specific contract it shall formally notify the contractor of its intention specifying the grounds thereof. The contracting authority shall invite the contractor to make any observations and, in the case of point (c) of Article II.14.1, to inform the contracting authority about the measures taken to continue the fulfilment of its contractual obligations, within 30 days from receipt of the notification.

If the contracting authority does not confirm acceptance of these observations by giving written approval within 30 days of receipt, the termination procedure shall proceed. In any case of termination the contracting authority shall formally notify the contractor about its decision to terminate the FWC or order form or specific contract. In the cases referred to in points (a), (b), (c), (e), (g), (j), (k) and (l) of Article II.14.1 the formal notification shall specify the date on which the termination takes effect. In the cases referred to in points (d), (f), (h), and (i) of Article II.14.1 the termination shall take effect on the day following the date on which notification of termination is received by the contractor.

## II.14.3 Effects of termination

In the event of termination, the contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the notification of termination, the contractor shall take all the appropriate measures to minimise costs, prevent damages, and cancel or reduce its commitments. The contractor shall have 60 days from the date of termination to draw up the documents required by the special conditions or order forms or specific contracts for the tasks already executed on the date of termination and produce an invoice if necessary. The contracting authority may recover any amounts paid under the FWC.

The contracting authority may claim compensation for any damage suffered in the event of termination.

On termination the contracting authority may engage any other contractor to execute or complete the services. The contracting authority shall be entitled to claim from the contractor all extra costs incurred in this regard, without prejudice to any other rights or guarantees it may have under the FWC.

## **Article II. 15 – Reporting and payments**

### II.15.1 Date of payment

Payments shall be deemed to be effected on the date when they are debited to the contracting authority's account.

### II.15.2 Currency

The FWC shall be in euros.

Payments shall be executed in euros or in the local currency as provided for in Article I.5.

Conversion between the euro and another currency shall be made according to the daily euro exchange rate published in the *Official Journal of the European Union* or, failing that, at the monthly accounting exchange rate established by the European Commission and



published on its website, applicable on the day on which the payment order is issued by the contracting authority.

### **II.15.3 Costs of transfer**

The costs of the transfer shall be borne in the following way:

- (a) costs of dispatch charged by the bank of the contracting authority shall be borne by the contracting authority,
- (b) cost of receipt charged by the bank of the contractor shall be borne by the contractor,
- (c) costs for repeated transfer caused by one of the parties shall be borne by the party causing repetition of the transfer.

### **II.15.4 Invoices and Value Added Tax**

Invoices shall contain the contractor's identification, the amount, the currency and the date, as well as the FWC reference and reference to the order form or specific contract.

Invoices shall indicate the place of taxation of the contractor for value added tax (VAT) purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

The contracting authority is, as a rule, exempt from all taxes and duties, including VAT, pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.

The contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the supplies and services required for performance of the FWC are exempt from taxes and duties, including VAT exemption.

### **II.15.5 Pre-financing and performance guarantees**

Pre-financing guarantees shall remain in force until the pre-financing is cleared against interim payments or payment of the balance and, in case the latter takes the form of a debit note, three months after the debit note is notified to the contractor. The contracting authority shall release the guarantee within the following month.

Performance guarantees shall cover performance of the service in accordance with the terms set out in the request for services until its final acceptance by the contracting authority. The amount of the performance guarantee shall not exceed the total price of the order form or specific contract. The guarantee shall provide that it remains in force until final acceptance. The contracting authority shall release the guarantee within a month following the date of final acceptance.

Where, in accordance with Article I.4, a financial guarantee is required for the payment of pre-financing, or as performance guarantee, it shall fulfil the following conditions:

- (a) the financial guarantee is provided by a bank or an approved financial institution or, at the request of the contractor and agreement by the contracting authority, by a third party;
- (b) the guarantor stands as first-call guarantor and does not require the contracting authority to have recourse against the principal debtor (the contractor).

The cost of providing such guarantee shall be borne by the contractor.

### **II.15.6 Interim payments and payment of the balance**

The contractor shall submit an invoice for interim payment upon delivery of intermediary results, accompanied by a progress report or any other documents, as provided for in Article I.4 or in the tender specifications or in the order form or specific contract.

The contractor shall submit an invoice for payment of the balance within 60 days following the end of the period referred to in Article III.2.2, accompanied by a final progress report or any other documents provided for in Article I.4 or in the tender specifications or in the order form or specific contract.

Upon receipt, the contracting authority shall pay the amount due as interim or final payment, within the periods specified in Article I.4, provided the invoice and documents have been approved and without prejudice to Article II.15.7. Approval of the invoice and documents shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information they contain.

Payment of the balance may take the form of recovery.

### **II.15.7 Suspension of the time allowed for payment**

The contracting authority may suspend the payment periods specified in Article I.4 at any time by notifying the contractor that its invoice cannot be processed, either because it does not comply with the provisions of the FWC, or because the appropriate documents have not been produced.

The contracting authority shall inform the contractor in writing as soon as possible of any such suspension, giving the reasons for it.

Suspension shall take effect on the date the notification is sent by the contracting authority. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, is carried out. Where the suspension period exceeds two months, the contractor may request the contracting authority to justify the continued suspension.

Where the payment periods have been suspended following rejection of a document referred to in the first paragraph and the new document produced is also rejected, the contracting authority reserves the right to terminate the order form or specific contract in accordance with Article II.14.1(c).

### **II.15.8 Interest on late payment**

On expiry of the payment periods specified in Article I.4, and without prejudice to Article II.15.7, the contractor is entitled to interest on late payment at the rate applied by the European Central Bank for its main refinancing operations in Euros (the reference rate) plus eight points. The reference rate shall be the rate in force on the first day of the month in which the payment period ends, as published in the C series of the *Official Journal of the European Union*.

The suspension of the payment period in accordance with Article II.15.7 may not be considered as a late payment.

Interest on late payment shall cover the period running from the day following the due date for payment up to and including the date of actual payment as defined in Article II.15.1.

However, when the calculated interest is lower than or equal to EUR 200, it shall be paid to the contractor only upon request submitted within two months of receiving late payment.

## **Article II. 16 - Reimbursements**

**II.16.1** Where provided by the special conditions or by the tender specifications, the contracting authority shall reimburse the expenses that are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets, or failing that, on production of copies or scanned originals, or on the basis of flat rates.

**II.16.2** Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary and the minimum number of nights necessary for overnight stay at the destination.

**II.16.3** 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;

In addition, travel outside Union territory shall be reimbursed provided the contracting authority has given its prior written consent.

**II.16.4** Subsistence expenses shall be reimbursed on the basis of a daily subsistence allowance as follows:

- (a) for journeys of less than 200 km for a return trip, no subsistence allowance shall be payable;
- (b) daily subsistence allowance shall be payable only on receipt of supporting documents proving that the person concerned was present at the destination;
- (c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including meals, local transport which includes transport to and from the airport or station, insurance and sundries;
- (d) daily subsistence allowance shall be reimbursed at the flat rates specified in Article I.3;
- (e) accommodation shall be reimbursed on receipt of supporting documents proving the necessary overnight stay at the destination, up to the flat-rate ceilings specified in Article I.3.

**II.16.5** The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the contracting authority has given prior written authorisation.

**II.16.6.** Conversion between the euro and another currency shall be made as specified in Article II.15.2.

## **Article II. 17 – Recovery**

**II.17.1** If an amount is to be recovered under the terms of the FWC, the contractor shall repay the contracting authority the amount in question according to the terms and by the date specified in the debit note.

**II.17.2** If the obligation to pay the amount due is not honoured by the date set by the contracting authority in the debit note, the amount due shall bear interest at the rate indicated in Article II.15.8. Interest on late payments shall cover the period from the day following the due date for payment up to and including the date when the contracting authority receives the full amount owed.

Any partial payment shall first be entered against charges and interest on late payment and then against the principal amount.

**II.17.3** If payment has not been made by the due date, the contracting authority may, after informing the contractor in writing, recover the amounts due by offsetting them against any amounts owed to the contractor by the Union or by the European Atomic Energy Community or by calling in the financial guarantee, where provided for in Article I.4 or in the specific contract.

## **Article II. 18 – Checks and audits**

**II.18.1** The contracting authority and the European Anti-Fraud Office may check or have an audit on the performance of the FWC. It may be carried out either directly by its own staff or by any other outside body authorised to do so on its behalf.

Such checks and audits may be initiated during the performance of the FWC and during a period of five years which starts running from the date of expiry of the FWC.

The audit procedure shall be deemed to be initiated on the date of receipt of the relevant letter sent by the contracting authority. Audits shall be carried out on a confidential basis.

**II.18.2** The contractor shall keep all original documents stored on any appropriate medium, including digitised originals when they are authorised by national law and under the conditions laid down therein, for a period of five years which starts running from the date of expiry of the FWC.

**II.18.3** The contractor shall allow the contracting authority's staff and outside personnel authorised by the contracting authority the appropriate right of access to sites and premises where the FWC is performed and to all the information, including information in electronic format, needed in order to conduct such checks and audits. The contractor shall ensure that the information is readily available at the moment of the check or audit and, if so requested, that information be handed over in an appropriate form.

**II.18.4** On the basis of the findings made during the audit, a provisional report shall be drawn up. It shall be sent to the contractor, which shall have 30 days following the date of receipt to submit observations. The final report shall be sent to the contractor within 60 days following the expiry of that deadline.

On the basis of the final audit findings, the contracting authority may recover all or part of the payments made and may take any other measures which it considers necessary.

- II.18.5** By virtue of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspection carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities and Regulation (EC) No 1073/1999 of the European Parliament and the Council of 25 May 1999 concerning investigation conducted by the European Anti-Fraud Office (OLAF), the OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities. Where appropriate, the findings may lead to recovery by the contracting authority.
- II.18.6** The Court of Auditors shall have the same rights as the contracting authority, notably right of access, for the purpose of checks and audits.



**EUROPEAN COMMISSION**

## FRAMEWORK CONTRACT ORDER FORM

DG and unit:

Order number:

(Name and address of contractor)

Currency of payment: EUR

Tel.:

Offer (date and reference):

E-mail:

This order is governed by the provisions of Framework Contract No. \_\_\_\_\_  
in force from \_\_\_\_\_ to \_\_\_\_\_

LISTING OF THE SUPPLIES / SERVICES  and code	UNIT	QUANTITY	PRICE in €	
			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 contract. For intra-community purchases, the mention "VAT Exemption / European Union / Article 151 of Council Directive 2006/112/EC" should be added on the invoice. [In Belgium, use of this contract constitutes a request for VAT exemption No. 450, VAT exemption article 42, paragraph 3.3 of the VAT code (circular 2/1978), provided the invoice includes: "Commande destinée à l'usage officiel de l'Union Européenne, Exonération de la TVA; art. 42 § 3.3 du code TVA (circulaire n° 2/1978)".]

- Packaging
- Insurance
- Transport
- Assembly
- VAT

**TOTAL**  
:

Place of delivery or performance and/or Incoterm:

**Contractor's signature**

Final date of delivery or performance:

Terms of payment:

Guarantee:

Name:

Position:

Date:

Date of issue:

Signature [name and position] [and for Belgium, Commission stamp]:

[For Belgium, numéro de dossier auprès du Protocole du SPF Affaires Etrangères]

The invoice shall be paid only if the contractor has returned the signed order form.