

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

**No. ENER/C3/2012-532**

**Concerning the evaluation of the Energy Labelling Directive and  
specific aspects of the Ecodesign Directive**

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## **I. SPECIFICATIONS**

### **I.1. INTRODUCTION**

Laying down of minimum ecodesign and energy labelling requirements is widely recognised as one of the most effective policy tools in the area of energy efficiency.

The Energy Labelling Directive 2010/30/EU<sup>1</sup> and the Ecodesign Directive 2009/125/EC<sup>2</sup> are considered to be pillars of the EU's energy efficiency policy and they can also significantly contribute to other EU policies such as, for example, resource efficiency, water efficiency and air pollution. Throughout this study when the terms "E/energy L/labelling" and "E/ecodesign" are used, when appropriate, the reference and/or task should be intended as covering all relevant environmental impacts in addition to energy.

The Ecodesign Directive establishes a legal framework for the Commission to regulate the environmental characteristics of energy-related products (except vehicles) placed on the EU market (regardless of their origin) through adopting implementing measures laying down ecodesign requirements. In performing its tasks the Commission is assisted by the Regulatory Committee and stakeholders grouped in the Consultation Forum.

The Energy Labelling Directive 2010/30/EU establishes a legal framework for the Commission to set mandatory energy labelling requirements for energy-related products (except vehicles) placed on the EU market (regardless of their origin) through adopting delegated acts (implementing directives under Directive 92/75/EEC). Energy labels allow consumers to make informed choices by being alerted on the consumption/running cost of a product before they make their purchasing decision.

Implementing (mandatory and voluntary) measures, energy labelling adopted under the Ecodesign and Energy Labelling Directives are complementary, as they respectively push the market and pull it towards more efficient products.

With the revision of the energy performance of buildings Directive in 2010 (Directive 2010/31/EU), Member States are required, for the purpose of optimising the energy use of technical building systems, to set system requirements in respect of the overall energy performance, the proper installation, and the appropriate dimensioning, adjustment and control of the technical building systems which are installed in existing buildings. System requirements shall be set for new, replacement and upgrading of technical building systems and shall be applied in so far as they are technically, economically and functionally feasible.

The system requirements shall cover at least the following:

- (a) heating systems;
- (b) hot water systems;
- (c) air-conditioning systems;

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<sup>1</sup> Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products, OJ L 153 of 18.6.2010, p.1

<sup>2</sup> Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products, OJ L 285 of 31.10.2009, p.10

(d) large ventilation systems;

or a combination of such systems.

While recognising that lighting is also a technical building system that is part of calculating the building's overall energy performance, the Directive does not require Member States to introduce system requirements on lighting systems.

The scope of this provision thus covers the same product groups as several implementing measures, energy labelling of the Ecodesign and Energy Labelling Directives.

## **I.2. PURPOSE OF THE CONTRACT**

The Energy Labelling Directive contains a review clause that requires the Commission to review the effectiveness of its application and of the application of the energy labelling adopted within its framework. Article 14 of the Directive 2010/30/EU states that the Commission should carry out the review not later than 31 December 2014.

The Ecodesign Directive also requires the Commission to review the effectiveness of its application and of the application of the implementing measures adopted within its framework. According to Article 21 of the Directive, the review should be performed not later than 2012. In January 2011, the Commission launched a study evaluating the effectiveness of the Ecodesign Directive<sup>3</sup> that was concluded with a final report published on 16 April 2012. However, because at the moment of the review, the Directive has been in force only for two years, certain aspects of its application could not have been thoroughly and properly assessed and thus they require a new assessment on the basis of new data and evidence.

To thoroughly and correctly review the effectiveness of the Energy Labelling Directive, the energy labelling and specific aspects of the Ecodesign Directive, the Commission will be required to collect and to analyse significant amount of data, to run consultations with stakeholders, and to properly assess complex technical, environmental, economic, legal and social aspects. To ensure that all required aspects and impacts of the Directives and their implementing measures will be properly assessed and that all action will be based on the reliable and up-to-date data, the Commission will request an independent contractor to perform a study. The study shall provide the Commission with the necessary background information and analysis so that the Commission will be able to make the review and to prepare for the next phases of the process and in particular for the Consultation Forum, for an impact assessment, and the possible drafting of a legislative proposal (when applicable).

Furthermore, after the delivery of the final report, the Contractor will be asked to provide the Commission with technical assistance, including the adjustment of the final report following received comments (including from the Consultation Forum) and providing an input for discussions in the Consultation Forum around the impact assessment, during the interservice consultation in the Commission, and in the Regulatory Committee.

The study run under this contract will involve affected stakeholders willing to contribute and will have a website regularly updated with the most significant developments.

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<sup>3</sup> [http://ec.europa.eu/enterprise/policies/sustainable-business/ecodesign/review/index\\_en.htm](http://ec.europa.eu/enterprise/policies/sustainable-business/ecodesign/review/index_en.htm)

### **I.3. DESCRIPTION OF THE TASKS**

The purpose of the study is twofold:

- a) to evaluate the effectiveness of the Directive 2010/30/EU on energy labelling and of the implementing measures adopted under the Directives 2010/30/EU and 92/75/EEC, and
- b) to evaluate specific aspects of the Ecodesign Directive 2009/125/EC (that are identified further in this document).

The study is to compile, assess and present information on the Directives and the implementing measures in order to provide stakeholders and the Commission with the necessary background information and analysis so that the Commission will be able to make the review and revision of the Directives (when justified).

The evaluation shall not only contain factual information and analysis but shall also provide suggestions of possible improvements of the current legal framework or its application by the national authorities and industry with the indication of the most relevant arguments for and against identified options. The study shall in particular provide concrete options for the future layout of the label.

#### **I.3.1. BACKGROUND INFORMATION**

**a) The effectiveness of the Directive 2010/30/EU on energy labelling** and delegated acts and implementing directives adopted under the Directives 2010/30/EU and 92/75/EEC (**TASKS 1-3**)

Article 14 of the Directive 2010/30/EU on energy labelling states that not later than 31 December 2014, the Commission shall review:

- the effectiveness of the Directive and of its delegated acts,
- the contribution of the "advertising provision" (Article 4(c)) to the aim of the Directive,
- the effectiveness of the "public procurement provision" (Article 9(1)), and
- the need for amending the design and content of the label (Article 10(4)(d)) in the light of technical evolution and the understanding by consumers of the label layout.

In addition to the requirements of Article 14, the review shall also assess:

- the appropriateness of laying down labelling requirements for energy and/or other resources/environmental impacts of non-energy related products, product systems, power generating devices and/or means of transport, and thus extending the scope of the Directive;
- the resulting impact of energy labelling on manufacturers, retailers (including SMEs), consumers, market surveillance authorities, standardization bodies, and on the Commission (including its public image).

The purpose of the study is to evaluate the effectiveness of the Energy Labelling Directive 2010/30/EU and the delegated acts and implementing directives adopted under the Directives 2010/30/EU and 92/57/EEC (in short: "energy labelling").

The first priority is to assess whether energy labelling has fulfilled its objectives in terms of informing consumers about the environmental characteristics of products during their use.

The second priority is to evaluate the appropriateness of the existing energy labels for meeting the objectives of the Directive and the delegated acts and implementing directives. To which extent have energy labels contributed to reaching the objectives? Have layout, design and content of the energy labels been appropriate? Have consumers understood the energy labels? Has the existence of the label lead industries to improve their products to achieve a better rating? Would an increased focus on energy consumption instead of energy efficiency help or hinder the achievement of further energy savings? Should "progressive" energy efficiency thresholds linked to the quantity of the product's output (as opposed to "linear" thresholds independent of output) be applied more strongly in order to ensure further cost effective savings of energy and other resources? Have consumers taken energy labels into account when purchasing products? Shall energy classes be maintained, and if yes, how many? Should energy labels contain further information on energy consumption and cost savings? Could/shall energy labels contain new pieces of information on environmental aspects that do not explicitly generate direct budgetary savings for consumers but will result in environmental improvements for society as a whole? Is there evidence for price premiums put on the highest energy efficiency class and are these premiums justified by increased costs of production? Should the field of application of the energy label be made consistent with that of the Ecodesign directive i.e. expanded to cover "whole significant life cycle impacts" rather than the current "in use" impacts alone? Would such labelling requirements be measurable and enforceable?

The third priority is to examine the effectiveness of the application of energy labelling in the EU and the Member States. Have products complied with the requirements? Has energy labelling been applied in a uniform way with common interpretations? Have stakeholders been informed and involved in the follow up of the implementation (Working Group)? Has market surveillance been effective (at Member State level and at EU coordination level ADCO)? Should provisions on "conformity assessment" similar to (or improving on) those provided in Article 8 of the Ecodesign directive, be also added to the Energy Labelling directive in order to a) increase the future ability to improve overall compliance with the directive, notably by introducing third party certification where appropriate and b) set labelling requirements on aspects that cannot be verified on the product itself? What would be the main additional costs and to whom?

The fourth priority is to examine whether the criteria and procedures for defining and developing delegated acts and implementing directives on the one hand, and as implemented by the Commission on the other hand have been effective and cost efficient. In performing this evaluation, the overall EU-wide cost benefits of the measures shall be weighed against the administrative burden, including lead times and administrative resource needs. In this context, the option of centralising the preparatory work for delegated acts and implementing directives as well as other product policies (Ecolabel, GPP) shall be assessed. It shall also be taken into account that delegated acts need to be reviewed after a certain time (generally 5 years). The sustainability of this process in terms of administrative burden shall be evaluated in a longer perspective. Furthermore, it shall be examined whether the most relevant products are prioritized, and the relevant environmental parameters correctly identified. Another key-issue is whether the stakeholders affected by the regulatory process have been appropriately consulted (Consultation Forum).

The fifth priority is to examine the political, legal and (if appropriate) procedural relationship of energy labelling with other relevant EU policies and instruments, in

particular within the framework of the SCP/SIP Communication (Ecodesign, Energy Star, Ecolabel, Green Public Procurement, etc.) but also other energy legislation (EPBD, EED, RES, tyre labelling etc.), environmental legislation (WEEE, RoHS, REACH, F-gas Regulation, etc.) and health and safety legislation. Of particular interest is the potential improvement in effectiveness resulting from a better integration of the product related instruments, especially Ecodesign, Energy Star, tyre labelling, Ecolabel and GPP, and of the other energy related instruments, especially EPBD and EED. How shall a revised Energy Labelling Directive position itself with respect to these policies and instruments? What would be the impacts of a better integration of these instruments on the resource-intensity of the criteria development process as well as the reduction on energy and wider environmental impacts of priority products considered?

The sixth priority is to examine the appropriateness of laying down labelling requirements for non-energy related products, product systems, power generating devices, means of transport, thus extending the scope of the Directive. Can environmental improvements and direct budgetary savings for consumers be achieved by applying the Directive to these areas? Are the current criteria adequate for these areas and what would be the potential benefits of the extension? Shall the existing exemptions such as transport stay in place? Which categories of products, systems and devices shall be included? Which modifications would have to be done in the framework Directive (e.g. addition of "conformity assessment" provisions, etc)? What technical conditions would be needed to extend the labelling framework to use patterns? What would the impacts of such extensions be for the EU and third countries?

The seventh priority is to evaluate effects of energy labelling on the market and on industry's competitiveness (including innovation). The competitive situation and the implications for different actors such as EU industry, importers, large companies and SMEs, retailers, installers and consumers shall be investigated

#### **b) The effectiveness of the Ecodesign Directive 2009/125/EC (TASKS 1, 3 and 4)**

The study shall also evaluate the specific aspects of the Ecodesign Directive 2009/125/EC that are specified further in this document.

The Ecodesign Directive 2009/125/EC provides that the Commission shall, on the basis of the experience gained from applying this Directive, Directive 2005/32/EC and implementing measures, review the operation, methods and effectiveness of this Directive and assess the appropriateness of extending its scope beyond energy-related products.

In January 2011, the Commission launched a study evaluating the effectiveness of the Ecodesign Directive<sup>4</sup>. The study was conducted by CSES and its final report was published on 16 April 2012.

The 2011 study has assessed, to the extent possible, and presented information on the effectiveness of the Ecodesign Directive and its implementing measures. It evaluated:

- different improvement options of different methods and procedures of the Directive,
- the development and application of the implementing measures, including the compliance and market surveillance activities,

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<sup>4</sup> [http://ec.europa.eu/enterprise/policies/sustainable-business/ecodesign/review/index\\_en.htm](http://ec.europa.eu/enterprise/policies/sustainable-business/ecodesign/review/index_en.htm)

- the impact of the Directive on the environment and resource consumption,
- the impact of the Directive and its implementing measures on the competitiveness of market operators (such as manufacturers, importers, and SMEs), on the dissemination of the state-of-the art knowledge and techniques, and on the (environmental) innovation,
- the appropriateness of extending the scope of the Directive beyond energy-related products.

The 2011 study, however, could not thoroughly and properly assess all aspects of the application of the Directive and of its implementing mandatory and voluntary measures (mainly because of a short period of their application), and thus it is necessary that these aspects are re-evaluated on the basis of new data and evidence.

Consequently, the study carried out under this contract shall re-assess the three following aspects of the Ecodesign Directive:

- The effectiveness of the mandatory and self-regulatory implementing measures adopted under the Ecodesign Directive;
- The appropriateness and feasibility of laying down eco-design requirements for non-energy related products and systems, power generating devices and means of transport;
- The effectiveness of the standardisation process carried out for the Ecodesign Directive.

### **I.3.2 STUDY EVALUATING THE ECODESIGN DIRECTIVE (2011)**

When evaluating the effectiveness of the Energy Labelling Directive and its delegated acts and implementing directives and the specific aspects of the Ecodesign Directive, the Contractor shall take into account the work performed in the framework of the study on the Ecodesign Directive carried out by the Commission in 2011 and the findings of that study.

### **I.3.3 DESCRIPTION OF EVALUATION TASKS**

The Contractor shall develop a methodological approach for the achievement of the tasks and present it in its proposal.

The appropriate methodology will be a key aspect in achieving the objectives of the study and it will be one of the award criteria (Chapter 4).

#### **I.3.3.1 Information sourcing and publicity**

The Contractor shall involve stakeholders willing to contribute to the study, including those representing sectors/products that are currently not covered by the scope of existing Energy Labelling and Ecodesign. Stakeholders shall be given an opportunity to provide timely and appropriate contributions. The Contractor shall ensure that stakeholders will receive all necessary information about the launch and progress of the study, and an opportunity for a timely and appropriate contribution. The Contractor shall communicate clearly and concisely with all stakeholders.

The relevant stakeholders are:

- manufacturers,
- distributors and importers,



- consumer organisations and environmental NGOs,
- Member State authorities,
- third countries authorities,
- organisations or individual experts that have carried out or carry out similar studies and/or projects with a related content, in particular if tendered by the Commission services, and
- any other relevant stakeholder interested in the study or proposed by the Contractor and agreed by the Commission.

To that effect, the Contractor shall:

- set up a specific website, independent from the Commission website, and keep it updated with the significant developments of the study, and
- hold at least three stakeholder meetings.

### **I.3.3.2 Study: evaluation and recommendations**

#### **➤ Executive summary**

The Contractor shall provide an executive summary for the Commission and stakeholders summarising all completed tasks that shall be regularly updated for each stakeholders meeting and for each meeting with the Commission.

#### **➤ TASK 1 - Study definition**

This task consists in:

- giving the background and in clarifying the context of the study,
- identifying, listing and involving stakeholders, and
- developing and describing the methodology for carrying out the study.

#### **Subtask 1.1 - Background**

The background and context of the study evaluating the Energy Labelling Directive and the delegated acts and implementing directives as well as specific aspects of the Ecodesign Directive shall be described, taking into consideration (as a minimum) the following elements:

- the objectives of the two framework Directives,
- the aim of the reviews of the two framework Directives,
- the consequences of extending the scope of the two framework Directives from energy-using products to energy-related products,
- the methodology for ecodesign of energy-related products (MEErP),
- the provisions of the two framework Directives, in particular the criteria for adopting implementing measures and delegated acts,
- existing regulations and regulations in the preparation/adoption process,
- existing and planned industry voluntary initiatives and programs,
- national schemes,
- the first Working Plan 2009-2011,
- the second Working Plan 2012-2014,
- the evaluation study of the Ecodesign Directive carried out in 2011,
- enforcement of the Directives and their implementing acts at national level,
- the Communication and Action Plan for Sustainable Consumption and Production and Sustainable Industrial Policy and in particular the Ecodesign Directive,
- Resource Efficiency flagship policy; Roadmap to a Resource Efficient Europe and any

following policies (Communication, Staff Working Document) from the Commission in this area;

- other relevant EU legislation and policies interacting with or related to the two framework Directives, and taking into account their scope extensions under consideration, in particular, but not limited to: Directive 2010/31/EU on the energy performance of buildings (hereafter called EPBD) and other potentially relevant policies and legislation (e.g. Ecolabel, WEEE, ROHS, REACH, Green Public Procurement, IPPC, Directive 1999/44/EC on the sale of consumer goods and associated guarantees), including on means of transport and non-energy products (e.g. tyre labelling, Euro standards, organic food labelling).

### **Subtask 1.2 - Stakeholders**

Stakeholders invited to participate in the study shall be listed. It shall be noted which stakeholders have rejected their involvement in the study, and what consequences this might have for the reliability of the result of the study.

Stakeholders shall have a possibility to register via the study website, shall be contacted at the start of the study to provide the input and shall be invited to the stakeholders meetings.

The findings of the study shall be presented to stakeholders. They shall be informed about the data and the methodology used in the study. If requested, additional information for assessing the results shall be given to stakeholders, provided commercially sensitive information is not divulged. Comments and suggestions from stakeholders shall be taken into consideration.

### **Subtask 1.3 - Methodology**

The methodological approach for the achievement of the tasks shall be outlined, based on the description of Tasks 2 to 4. Any deviations from the task descriptions need to be agreed with the Commission.

### **Data collection method**

The data collection may include the use of tools, such as:

- Desk research
  - qualitative and quantitative analysis of existing data (e.g. application of the Directives in the Member States, infringements),
  - analysis of the relevant legislation,
  - analysis of the relevant non-legislative documents,
  - analysis of EU and national instruments and statistics (e.g. Eurobarometer Prodcom),
  - desk-based case studies related to the evaluated Directives in order to assess the results achieved so far and the perception by stakeholders.
- Targeted telephone or email interviews with
  - EU officials in DG ENER and other relevant Directorate Generals (ENTR, ENV, CLIMA, JRC, SANCO, SG etc), on questions related to the day-to-day implementation of the Directives from the point of view of the Commission.
  - European Standardisation Organisations,
  - Competent authorities in Member States responsible for the implementation of the Directives and their implementing measures, delegated acts and implementing directives, as well as of other relevant legislation in particular Directive 2010/31/EU;
  - relevant stakeholders.

The Contractor shall carefully select the questions to be asked in these interviews to match the profile of the interviewee.

- Public consultation

The Contractor shall propose a questionnaire to the Commission for posting online on the "Your Voice" consultation page ([http://ec.europa.eu/yourvoice/consultations/index\\_en.htm](http://ec.europa.eu/yourvoice/consultations/index_en.htm)), and will analyse the answers received. The consultation will last three months, during which the Contractor shall organise one of the stakeholder meetings together with the Commission.

- Any other tools deemed appropriate for the purpose of the evaluation.

The Contractors shall combine and reformulate the questions listed in Subtasks 2.1 and 4.1 as appropriate to keep the number of questions addressed to stakeholders at the necessary minimum, while ensuring that all the questions listed below are answered. They shall elaborate further evaluation questions if needed. Data analysis will include the selection of appropriate indicators to assess the effectiveness.

*Expected results of Task 1: Thorough description of the background, and the context of the study. Information about stakeholders involved in the study, their roles and tasks and means of cooperating with them.*

*Outline of the methodological approach adopted in the study, including the presentation of the tools for collecting data and sources of information used in the study.*

➤ **TASK 2 - Evaluation of the Energy Labelling Directive 2010/30/EU**

**Subtask 2.1 - Evaluation**

This task consists of collecting, assembling and analysing information necessary to evaluate the application of the Energy Labelling Directive 2010/30/EU and the implementing directives and delegated acts adopted under Directives 92/75/EEC and 2010/30/EU.

**Evaluation questions**

The contractor shall provide substantive replies to the evaluation questions. It shall provide justifications of the positions and opinions presented in the answers given to the questions and shall indicate data, information, facts and arguments supporting these positions and opinions. The contractor should ensure that a clear distinction is made in its report between the recommendations / conclusions which are backed by factual information/data/facts and those that are coming from opinion of the contractors or stakeholders. Furthermore, answers given to the evaluation questions shall be provided with a view to preparing the possible recommendations for improvements of the current legal framework or of its application by national authorities and industry (Subtask 2.2).

The tenderer is encouraged to propose in its offer further questions formulated on the basis of the evaluation questions listed below. Questions proposed by the tenderer can also concern aspects of energy labelling that are relevant for the evaluation but are not covered by the evaluation questions listed below.

## **Objectives of the Directive**

### ➤ Objectives

1. Has energy labelling fulfilled its objectives in terms of informing consumers about the consumption of energy and of other essential resources of products during use? Has this remained true under the new 7 + 3 labelling classes? Will this continue being true for product groups already regulated under the Ecodesign and Energy Labelling Directives, when the applicable implementing regulations will be reviewed?
2. Has energy labelling fulfilled its full potential in generating energy savings for the 2020 targets? If not, why? What savings have been generated by energy labelling? Is it likely to fulfil its potential in the future, if it is not changed?
3. How far is it helpful to regulate 'energy consumption' of products in the EU where 27 Member States have different energy costs, climates and usage patterns?
4. Have the right product groups been selected for the mandatory energy labels? Why? Which product groups have been neglected, and on what grounds?
5. Would an increased focus on energy consumption instead of energy efficiency help or hinder the achievement of further energy savings? Should "progressive" energy efficiency thresholds linked to the quantity of the product's output (as opposed to "linear" thresholds independent of output) be applied more strongly in order to ensure further cost effective savings of energy and other resources?
6. Has the right standard product information been provided to consumers, without disproportionate administrative burden for suppliers and dealers?
7. Should the revision of the Energy and other resources Labelling Directive ensure that it expands its range of applicability beyond the "in use" phase to cover all "life cycle impacts" in order to make it consistent with the Ecodesign Directive? What would be the benefits and the disadvantages of such approach?

### ➤ Need for a change?

8. Could the results achieved by the energy labels be realised with other existing regulatory instruments or without any regulatory intervention?
9. Is the EU mandatory energy and other resources labelling scheme (consisting of an energy label and a fiche) needed at all, taking into account the costs and benefits ratio? If not, which other scheme (e.g. functioning in a third jurisdiction) could be applied in the EU to replace the current scheme and why it would be more effective and efficient? Should new voluntary or mandatory labelling schemes be created or revised to complement the existing or revised energy label? For coherence, should Ecolabel be mandatory and provide comparative information on the environmental performance of the product? Or should both be voluntary? Why? What would be the impacts?
10. What are the strongest and weakest elements of the current EU energy labelling scheme? Why?
11. If the current energy labelling scheme should be maintained, which of its elements should be improved, why and how?
12. Should national mandatory energy labelling schemes (instead of the EU-wide system) be introduced?
13. Should only voluntary energy labelling schemes exist?
14. Should voluntary and mandatory labelling scheme be used in parallel (e.g. TV and heater label)?
15. Should there be a legal provision, like for ecodesign, for voluntary initiatives on labelling? What are the pro's and con's of this, including administrative burden for the Commission?
16. Should the energy label be protected more strongly against unauthorised use, by e.g.

registering it as a trademark? What are the pro's and con's of registering the energy label as a trademark?

17. What can be learnt from the experience of other jurisdictions? How does the performance of the EU energy and other resources labelling scheme compare with the performance of the schemes existing under other jurisdictions? What have the main differences been? What explains these differences?

➤ Two separate frameworks?

18. Should the revision limit the scope of the Energy Labelling Directive and the Ecodesign Directive to energy consumption (and perhaps noise, as provided in the first energy labelling framework directive 92/75/EEC), while a similar set of legal instruments (Directives/Regulations etc) applying to other significant environmental aspects would be adopted? What would be the benefits and disadvantages of such a division for the European Institutions, Member States, manufacturers, retailers, consumers and importers as well as other stakeholders? What would be the impact of such a division on the preparatory and regulatory process, on enforcement, standardisation, etc?

19. Should the revision limit the scope of the Energy Labelling Directive and the Ecodesign Directive to requirements targeting use phase improvements, while a similar set of legal instruments (Directives/Regulations etc) applying to improvements in the other phases of the product's life would be adopted? What would be the benefits and disadvantages of such a division for the European Institutions, Member States, manufacturers and importers as well as other stakeholders? What would be the impact of such a division on the preparatory and regulatory process, on enforcement, standardisation, etc ?

20. Would it make sense to apply the divisions explained in the previous two points not at the level of framework directives, but at the level of implementing measures and delegated acts?

**Appropriateness of the energy and other possible labels**

➤ Costs and benefits?

21. Are mandatory energy labels for products needed, at all? What type of labels are needed to efficiently implement the EU policies relevant to products and systems?

22. What are the benefits of the mandatory energy labels introduced at EU level?

23. What are the costs of the mandatory energy labels introduced at EU level?

24. Do benefits resulting from the energy labelling requirements overcome costs of adopting Regulations that impose such energy labels? If yes, by how much? If not, by how much, why and what should be changed to reverse the situation?

25. What has been the impact of the energy labels on energy consumption and on other parameters they include? For which product groups the impact was the most significant and for which the smallest? For which parameters has the impact been the most significant and for which the smallest? Please explain why and for which reasons?

26. With respect to the scenario analyses of the impact of the planned measures, by how much has the assumption of real term increases in energy prices (rather than of constant prices) influenced the ambition level of the resulting measures?

➤ Energy label or nothing?

27. Have layout, design and content of the energy labels been appropriate? Is there a need to amend Article 10 (4)(d)?

28. What are the strongest and weakest elements of the current EU energy labels?

29. Shall the current energy labels (with seven energy classes and up to three top classes) be maintained?

30. If the current energy labels should be maintained, which of their elements should be

improved? Please explain why and how they should be improved?

31. If the energy labels should be maintained, should current energy classes be kept? If not, how could current energy classes be replaced?
32. Have the classes on the existing energy labels been set at correct levels, including in relation to the level of Ecodesign minimum requirements?
33. What have been the benefits and the disadvantages of introducing three additional classes A+, A++ and A+++ for both businesses and consumers?
34. What is the best method of recalibrating or reducing existing energy classes to a more relevant level (e.g. when a class A++ subsequently becomes a class B)? What would be the effects of such recalibration or reduction on the market for the product group concerned? What are the possible risks and advantages?

➤ Additional information needed?

35. Shall energy labels continue to contain new pieces of information, including on environmental aspects other than energy consumption (e.g. environmental aspects that do not explicitly generate savings for consumers)? Which other environmental aspects should be included in the energy label?
36. If yes, would changes to the legal framework be required? If yes, what changes?
37. If yes, what would be the impact on the preparatory and regulatory procedure, on enforcement, standardisation, etc?
38. If yes, what would be the impact on manufacturers and importers?
39. Should two separate labels, one for energy consumption and the second one for other environmental aspects exist? Should this information be provided on a voluntary or mandatory basis and be indicated in absolute or comparative terms? If yes, how?
40. Do appropriate methodologies exist for laying down energy labelling requirements on environmental aspects other than energy consumption? If not, could such methodologies be prepared? Is it feasible?
41. Shall the energy label be introduced for products that are mainly purchased in B2B relations (e.g. products purchased by installers)? Is there a difference if the installer sells the product to consumers or companies? What form should the label take in such cases?
42. Shall energy labels be introduced for non-household energy related products (e.g. electric motors)? What form should the label take in such cases?
43. Shall energy labels contain information about the annual running costs? How could reliable information be assured in the light of different energy prices in the 27 Member States?
44. Should energy labels cover other than use phases of the product's life? If yes, which and why? If not, why?
45. If yes, what changes to the legal framework be required?
46. If yes, what would be the impact on the preparatory and regulatory procedure, on enforcement, standardisation, etc?
47. What impact would the energy labels covering other than use phases of the product's life have on manufacturers and importers?
48. Do appropriate methodologies exist for laying down energy labelling requirements applying to other than use phases of the product's life? If not, could such methodologies be prepared? Is it feasible?
49. Would it be feasible to prepare energy labels covering other than use phases of the product's life? What will the biggest challenges be? How could such challenges be avoided or reduced to a necessary minimum?
50. Should two labels be introduced: one for the use phase and the second one for other than use, phases of the product's life? Would a two-headed labelling structure improve the clarity for the consumer, with one mandatory/voluntary label with comparative information on the performance of the appliance in terms of energy efficiency and other

main use-phase-related resources (those directly relevant to the main interest of most consumers, that is, the cost of using and owning the appliance) and a second mandatory/voluntary label with comparative information on the environmental performance of the appliance? What would be the main environmental impacts to be indicated (in form of an index, percentage, A-G scale or other scale or structure)?

51. Would energy labels covering phases of the product's life other than the use phase be enforceable by national authorities? What would the biggest challenges be in enforcing such requirements? How could such challenges be avoided or reduced to a necessary minimum? Would the current legal framework have to be changed to enforce such energy labels? If yes, how much would the legal framework have to be changed? Would it be feasible to prepare verification procedures for market surveillance authorities?
52. Would it make sense and would it be possible to allow for the use of QR-codes in the label in order to display information about the product on the consumers' smartphones or on smart meters or other? How far could this information be standardised?
53. Would it make sense and would it be possible to allow for the labelling of use patterns of smart appliances / smart homes / smart neighbourhoods?<sup>5</sup> Which technical and other conditions would be needed to extend the labelling framework in such a way?

➤ Consumers

54. Have consumers understood the energy labels? What have been the main challenges in the understanding of energy labels by consumers? Has there been an evolution in this sense with the introduction of new labels with new information? Which elements of energy labels have not been understood and thus shall be improved? How?
55. Is the information other than on the comparative efficiency of the appliance understandable for the consumer (e.g. noise, energy consumption, efficiency per climate zone etc.)? Can more information be added on the label without leading to unclarity?
56. Have consumers taken the energy labels into account when purchasing products? For which products yes and for which not? To which extent energy labels have been taken into account? If not, why and what should be changed in the design and/or content of the labels to change consumers' approach? Should more energy or environmentally related information be added on the label? Why? How? Or should this information be provided on another label? Why? Or not at all?
57. Have consumers taken energy labels into account mainly because of possible economic gains or for purely environmental reasons ('to save the planet')? Are the letters or colours more important for the consumer, or both? Which message is most important to consumers ("buy A" or "buy green" or "buy green A")? Less expensive to maintain, or greener for the environment during use? Should figures be added to the label (e.g. an energy consumption index)?
58. Have aspects that are relevant from the consumer's point of view been covered by energy labels?

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<sup>5</sup> In this case, the labelling would come instead of or in addition to the static label applied by the manufacturers and retailers, which is supposed to direct the consumer's choice prior to purchase in the shop. Once the user starts to use the product at home, the product would measure its own energy (or other resource) consumption and compare it to product benchmarks accounting for the size of the user's household (size expressed in units relevant for the case, e.g. number of inhabitants for a washing machine or a water heater, surface area of the household for central heating appliances). If in the user's household the appliance consumes much more energy over a given period per capita or per surface area than known benchmarks, the appliance would rate the use made of it rather low on the label, and display this result dynamically on its screen, together with tips on how to improve the situation by changing user behaviour. The labelling would thus characterise not only the performance of the appliance itself, but also how it is being used. Similar schemes could exist not only at the smart appliance level, but also for rating the performance of entire rooms (e.g. kitchens), households, or even of neighbourhoods (as e.g. in some states of the U.S.).

59. Would the combined effect of Ecodesign and Labelling on environmental impacts be enhanced if there was an indication on the label that certain classes are already empty, when products having those efficiency levels have been banned by Ecodesign? Should only those classes be indicated that are populated? Would consumers understand such indications? By how much would the effect on environmental impacts be improved by this understanding? What is the situation currently: how many classes are populated in average in current energy labels?

➤ Fiches

60. Are product fiches supplied in addition to the energy labels needed, at all?
61. What have been the benefits of the product fiches?
62. What have been the costs of the product fiches?
63. Have these benefits overcome costs?
64. What has been the impact of the product fiches on energy consumption and on other parameters they include? For which product groups has the impact been the most significant and for which the smallest? For which parameters has the impact been the most significant and for which the smallest? Please explain why and for which reasons?
65. Has the scope of the information provided on the product fiches been correct? Should the scope of the information provided be changed? If yes, how?
66. Have design and content of the product fiches been appropriate? Should the design and content of the product fiches change? If yes, how?
67. Have consumers taken the product fiches into account when purchasing products? To which extent? If not why and what should be changed in the design and/or content of the product fiches to change consumers' approach?
68. Could/should the product fiches contain new pieces of information, including on environmental aspects other than energy consumption (e.g. environmental aspects that do not explicitly generate savings for consumers)? Which other environmental aspects should be included in the fiches?
69. Shall the product fiches be introduced for products that are mainly purchased in B2B relations (e.g. products purchased by installers)? If yes, in what form?
70. Shall the product fiches be introduced for non-household energy related products (e.g. electric motors)? If yes, in what form? Shall product fiches be introduced on energy generating devices, such as solar panels, wind energy, CHP installations or other?
71. Shall the product fiches contain information about the annual running costs?
72. Shall product fiches be replaced by another kind of standardised information to the consumer?

➤ Distance selling

73. Have consumers taken the information into account when purchasing products through distance selling? To which extent?
74. What could be improved to the provisions for distance selling? Should provisions be different for online (internet) selling and other distance selling?

Advertisement and technical promotion material

75. Are the provisions on advertisement and technical promotion material appropriate? Which impact do they have on the market, in comparison to the mandatory element in advertisement and administrative burden on suppliers and dealers?



## **Criteria and procedures for developing delegated acts and implementing directives and standards**

### ➤ Procedure

76. Should a working plan be established under the energy labelling Directive (so far the working plan established under the Ecodesign Directive is applied)? Or should they be tackled in one plan only?
77. Should the criteria mentioned in paragraph 2 of Article 10 of the Energy Labelling Directive (i.e. significant savings potential, wide disparity in the performance levels, etc.) be changed? Should new criteria be added? Why?
78. Is the procedure for adopting delegated acts adequate for laying down energy labelling requirements for products?
79. How could the efficiency and effectiveness of the current procedure used for developing delegated acts be improved? Would other procedures (such as the ordinary legislative procedure) be better suited for the purpose? How could the efficiency of the reviews and revisions of the existing implementing legislation be improved?
80. Could delegated acts be revised on the basis of an agreed automatism based on the market developments? How?
81. Could the Commission introduce energy labels for many different, identified product groups in one horizontal Regulation? What would be the benefits and risks?
82. Could the Commission introduce common verification procedure for all product groups covered by the mandatory energy labelling scheme, in one horizontal Regulation? What would be the benefits and risks?
83. In which way and at which stage should stakeholders be involved in the preparatory and adoption process in order to ensure the proper execution of their rights and to reduce the administrative burden to the necessary minimum?
84. Have stakeholders been sufficiently involved in the process of developing delegated acts?
85. If the procedure for adopting delegated acts is not adequate for laying down energy labelling requirements for products, which of all relevant existing procedures would be the most adequate?
86. Could the Commission review and revise existing delegated Regulation through one horizontal act (so-called 'omnibus')? What would be the benefits and risks?

### ➤ Resources

87. What resources have been required for developing, implementing and reviewing a delegated act respectively for the Commission, other EU institutions, Member States, other stakeholders?
88. What administrative burden will the implementation of the Energy Labelling Directive and the energy labelling represent in the future to the Commission, assuming no loss in the effectiveness of the implementation, and taking into account the number of energy-related products already covered and to be covered?

### ➤ Scope

89. How many product groups can the Energy Labelling Directive realistically cover in future, while remaining efficient (including non-energy related products and power generating devices)?
90. Has the product scope of energy-related products been adequate for energy labelling?
91. Have energy labelling provided sufficient savings justifying their development? What is the justified improvement limit?

- Standardisation
  92. Should harmonised standards be developed under the energy labelling Directive (so far the harmonised standards developed under the Ecodesign Directive are applied)?
  93. Has standardisation fulfilled its role foreseen in the Directive in contributing to realising the energy labelling policy?
  94. How could the standardisation process be improved (mainly speed up), if possible without changing the internal procedures of the Standardisation Bodies?
  95. What types of standards, test and measurement standards, performance standards, and horizontal standards have been developed?
  96. Has the standardisation process been effective enough to produce standards supporting the energy labelling?
  97. Have standards been harmonised at global level?
  98. Which challenges have the Standardisation Bodies faced in developing standards?

### **Implementation and application**

- Competences and powers
  99. Did the applicable legislation (including Energy Labelling Directive, implementing Regulations, Regulation 765/2008/EC and Decision 768/2008/EC) provide national authorities with the adequate competences and powers to carry out market surveillance activities? If not, which competences and powers are missing?
  100. Should the Energy Labelling Directive have the same suite of tools at its disposal as the Ecodesign Directive, including the conformity assessment procedures (Article 8 of the Ecodesign Directive) and other modules of Regulation 765/2008/EC and Decision 768/2008/EC?
- Enforcement
  101. Have the appropriate and effective market surveillance mechanisms for cooperation between administrations been established?
  102. Have the energy labels been enforceable? What have been the main challenges in enforcing the energy labels? What should be done to improve the enforcement of the energy labels?
  103. Have market surveillance actions been performed for all products subject to the energy labelling requirements or only for selected ones? If only for selected products, why and which selection criteria were applied?
  104. What has been the share of noncomplying products on the EU market?
  105. Have Member States used EU-wide systems for exchanging market surveillance data, including ICSMS and CIRCA? To which extent? If not, why? What have been the challenges in using these systems?
  106. What have been the impacts of Regulation 765/2008/EC and Decision 768/2008/EC on the application of energy labelling?
  107. Which challenges have Member States faced when performing market surveillance? How could these challenges be overcome?
  108. Is market surveillance the right tool to verify the compliance of products with the applicable requirements? If not, which other tools could be used in addition to or instead of market surveillance?
  109. Should the Commission or other EU bodies be more involved to ensure enforcement activities? Which role could they play?
  110. Should market surveillance activities of Member States be (better) planned and coordinated at EU level for an optimal use of resources?
  111. Have stakeholders benefited from ADCO, Working Group and Consultation Forum meetings? How could these meetings be changed / improved to increase benefits for

stakeholders?

112. Have verification procedures provided in delegated acts been appropriate for the verification of the compliance of products with the applicable requirements? Has the use of tolerances led to abuse by the manufacturers to achieve better classes for their products? If yes, what is the quantity of savings not realised due to the abuse, and how could such abuse be prevented?
113. Should provisions on "conformity assessment" similar to (or improving on) those provided in Article 8 of the Ecodesign directive, be also added to the Energy Labelling directive in order to a) increase the future ability to improve overall compliance with the directive, notably by introducing third party certification where appropriate and b) set labelling requirements on aspects that cannot be verified on the product itself?

➤ Uniformity, campaigns, etc

114. Have stakeholders been well informed on how to interpret and apply energy labelling?
115. What have been the effects of educational, promotional and information campaigns run by Member States aimed at promoting energy efficiency and more responsible use of energy by end-users (as required by Article 3(c))??
116. How has the provision of Article 4(c) contributed to the aim of the Directive? What have been the main obstacles in the application of that provision? How could the effectiveness of the application of this provision be improved?

**Relation to other EU policies**

117. Has the Directive fulfilled its policy role within the context of the SCP/SIP Communication?
118. How does the results achieved from the energy labels compare to the results from other relevant policy instruments (e.g. Ecodesign, Energy Star, Ecolabel)?
119. Has energy labelling complemented, overlapped or contradicted other policy instruments and in that case which ones and how? Is it possible to better integrate the product related policy instruments, especially Ecodesign, Energy Star, Ecolabel and GPP (e.g. common preparatory studies, stakeholder working groups)? How?
120. How has the interaction with the relevant environmental legislation (e.g. WEEE, RoHS, and REACH) functioned? What have been the main challenges? How could the interaction be improved?
121. How has the interaction with the relevant health and safety legislation functioned? What have been the main challenges? How could the interaction be improved?
122. How has the interaction with the relevant energy efficiency legislation (e.g. the Ecodesign Directive, the Directive on the Energy Performance of Buildings and the Energy Services Directive) functioned? What have been the main challenges? How could it be improved?
123. Would it make sense to establish a mechanism updating public authorities about the highest ranking products available, with a view to facilitate the implementation of the public procurement requirements in the new Energy Efficiency Directive? If yes what would be best format for this mechanism?
124. How do the energy labelling requirements compare with product information requirements set out in ecodesign implementing measures? What are the pros and cons of using one or the other to require information?
125. What has been the effectiveness of the energy labelling for those product groups that can be considered part of 'technical building systems' (i.e. heating and hot water systems, air-conditioning and large ventilation systems or combinations of such systems) versus the measures that Member States have taken regarding such systems under the implementation of Directive 2010/31/EU (or its predecessor Directive 2002/91/EC)?

126. What have been the challenges in implementing both the energy labelling energy labelling and technical building system requirements in the Member States?
127. Going forward, what would be the best regulatory framework for improving the energy efficiency of technical buildings systems and why?
128. Would it be more beneficial if the Energy Labelling Directive was merged with the Ecodesign Directive and Energy Performance of Buildings Directive? What would be the pros and cons of such a merger (in terms of resources, adoption procedures, implementation by Member States, etc.)?
129. What would be the advantages and disadvantages of merging the tyre labelling framework and the energy labelling framework?
130. What would be the benefits and disadvantages of merging energy label and Ecolabel? Why?

### **Market effects and impacts on industry's competitiveness (including innovation)**

131. What have been the respective market sizes of products potentially and effectively targeted by the energy labelling requirements?
132. What effects has energy labelling had on the competitiveness of different market operators (EU industry, importers, large companies, SMEs) on the national, EU and international markets?
133. What effects has energy labelling had on the production costs and profit margins for regulated products?
134. Have there been free-riders on the market supplying non-complying products? What is the scale of the problem?
135. Has energy labelling restricted the choice of products on the market?
136. What effect has Energy Labelling had on (technological) innovation?
137. What has been the effect of energy labelling on the market structure (e.g. relations between different actors in the supply chain, and particularly relation between manufacturers and distributors, competitive situations of different market players, market shares of SMEs, etc.)?
138. What effect has energy labelling had on third countries (third country regulations, international and national standards, manufacturer processes in third countries, etc.)? Have third countries based their legislation on the EU energy labelling measures? What savings have been generated by the third countries legislation based on the EU energy labelling laws?
139. How has energy labelling impacted global harmonisation of products?
140. Has energy labelling added costs or administrative burdens?
141. What have been the tangible benefits of the Directive for stakeholders?

*Expected results of subtask 2.1: Thorough evaluation of the effectiveness of energy labelling on the basis of the data gathered by the Contractor, mainly (but not exclusively) on the basis of the provided evaluation questions.*

### **Subtask 2.2 – Recommendations for actions on the Energy Labelling Directive**

The task consists of formulating recommendations for actions on the basis of the evaluation of the effectiveness of energy labelling in Task 2.

Recommendations shall aim at realising the objectives of the Energy Labelling Directive and the energy and other resources labelling by improving their effectiveness.

Recommendations shall be realistic and in line with the Treaty on the European Union and whenever possible make use of the existing EU policies and instruments.

Recommendations may imply modifying legal instruments and/or adapting mechanisms, procedures, methodologies or organisation of the work at EU and national levels. Recommendations for the modification of policy instruments and/or methodologies shall, when possible, be given as drafting proposals related to the texts of the policy instruments or methodologies.

In addition, the Contractor shall also propose at least three different options for the label's generic layout (in terms of organisation of content and graphic design), elaborated in line with the answers given to the questions in Subtask 2.1 and with feedback collected from stakeholders. The proposed options shall include sub-options as appropriate, and should be ready to be tested on consumers in the framework of a consumer understanding study separate from this review study.

The Contractor shall consult stakeholders when elaborating the recommendations and present draft recommendations in the second stakeholder meeting to check their feasibility, before including them in the draft final report.

Additionally and as applicable, for the purposes of guiding subsequent impact assessments, considerations shall be provided on the impact (effectiveness and resource use, economic, environmental improvements, industry's competitiveness, innovation, on consumers, etc.) of the recommendations.

*Expected results of subtask 2.2: Recommendations on the Commission's and Member States' actions to improve the realisation of the objectives of energy labelling and a consideration of the impacts of the recommendations.*

➤ **TASK 3 - Appropriateness and feasibility of laying down ecodesign and energy labelling requirements for non-energy-related products, product systems, power generating devices and means of transport under the Energy Labelling Directive and the Ecodesign Directive**

The task shall be carried out together for the Energy Labelling Directive and the Ecodesign Directive. However, the contractor should prepare and should present conclusions of the analysis separately for the Energy Labelling Directive and the Ecodesign Directive. The conclusion could well be that a particular extension would make sense under one Directive but not under the other. When considering this task, reference to the "Energy Labelling Directive" is intended in the wider "life cycle" perspective assessed under Task 2 (in addition to the "use phase only" approach under the current Directive). This task should not be repeated for product groups that were assessed in the 2011 evaluation study of the Ecodesign Directive.

The task is divided into four subtasks:

- Examining the scope for laying down energy labelling and ecodesign requirements for non-energy-related products and/or for systems (including of energy-related products), energy generating devices (e.g. solar panels, wind turbines) and means of transport, and thus extending the scope of the framework Directives, by identifying

the relevant possible products, product systems and devices, and their sales, trade and stock data;

- For those categories where a scope extension is deemed theoretically feasible and relevant, making case studies of representative products, systems and devices to determine the actual feasibility and relevance of laying down energy labelling and/or ecodesign requirements;
- Assessing, based on the results of the case studies, the appropriateness and feasibility of laying down energy labelling and/or ecodesign requirements for the rest of the products, product systems and devices identified in Subtask 3.1 and providing a list of products, product systems and devices for which it is feasible to lay down energy labelling and/or ecodesign requirements;
- As relevant, following subtask 3.3, identifying and making separate recommendations for the modification of the Energy Labelling Directive and the Ecodesign Directive and/or other policy instruments, required to lay down requirements for products, systems and devices (e.g. a removal or modification of existing exemptions and/or an extension of their scopes) and assessing their impacts.

### **Subtask 3.1 - Identification of non-energy related products and of systems, power generating devices and means of transport, and related key data**

Non-energy-related product groups and systems, power generating devices and means of transport for which energy labelling (including use-pattern labelling, if found appropriate in Task 2) and ecodesign requirements could be introduced, shall be defined based on the following categorisations:

- Prodcom categories (Eurostat);
- Categories according to EN- or ISO-standard(s) or under development in the standardization bodies (such as on pumping system – extended product approach);
- Other product-specific categories (e.g. sector-specific categories), if not defined by the above;
- Possible existing energy efficiency legislation in other jurisdictions.

Prodcom shall be the first basis for defining the product groups, since Prodcom allows for precise and reliable calculation of trade and sales volumes.

If the product classification and definition relevant from a technical, economic and environmental point of view does not match directly with one or several Prodcom categories, the study shall detail how it is translated into parts of Prodcom categories or the other categories mentioned above.

### **Volume of sales and trade**

In order to assess the environmental impact and improvement potential of the product groups, data on the functioning and developments of the market shall be collected. Sales and trade volumes for the defined products within the EU-27 shall be assessed. A clear picture of the product stock available on the EU market shall be provided and its growth and replacement rate be forecasted. Insight in the latest market trends so as to indicate the scope for possible energy labelling and ecodesign measures in the context of the market structures and ongoing trends in product design shall be given.

### **Generic economic data**

- EU Production Sold;
- Extra-EU Trade;
- Intra-EU Trade;
- EU Sales and Trade (Calculated from EU production sold plus Intra-EU Trade minus Extra-EU Trade).

Data shall relate to the latest full year for which at least half of the Member States have reported. Data shall be in physical units.

Information for this subtask shall be derived, if possible, from the official EU statistics so as to be coherent with the official data used in EU industry and trade policy. Data shall be extracted from each of the relevant Prodcom categories or other product classifications identified as partly or fully matching the definition of the products.

### **Market and stock data**

- In physical units, for EU-27, for the defined products and for reference years;
- Latest available year (2011 or 2012);
- 2016 (forecast, if necessary for product groups with a high innovation potential);
- 2020 or 2030 (forecast, year in which the new ecodesigned products of today will be absorbed by the market);
- The installed base ("stock") shall be identified.

#### **▪ Systems**

To the extent possible, key data similar to that collected for non-energy related products shall be presented for particular product systems.

#### **▪ Power generating devices**

To the extent possible, key data similar to that collected for non-energy related products shall be presented for power generating devices.

### **Subtask 3.2 - Case studies on representative products, product systems and power generating devices**

Five products, product systems (e.g. agriculture, consumer products, industrial products, housing), power generating devices (e.g. solar panels, wind turbines) and means of transport representing different categories shall be subject to case studies with the purpose of evaluating their environmental impact, improvement potential and feasibility of laying down requirements under the Energy Labelling and the Ecodesign Directives. The choice of case studies should be agreed with the Commission before they are launched.

### **Environmental impact and improvement potential**

All relevant environmental impacts shall be considered to be included in the elaborated analysis of these product groups, but only the most relevant Life Cycle Assessment parameters shall be fully analysed for the case studies. In selecting these parameters, the Contractor shall consider those contained in the MEerP methodology and also those in other LCA methodologies compliant with the European Life Cycle Database (ELCD). The Contractor shall specify in detail why and what factors are considered the most relevant for the given group.

These could be:

- consumption of materials, of energy and other resources such as fresh water,
- emissions to air, water and soil, including hazardous substances,
- possibility for reuse, recycling and recovery of material and/or of energy,
- life time of the product,
- generation of waste.

A quantitative analysis of other environmental impacts shall be based on the volume of sales and trade and stock identified in Subtask 3.1. The MEErP methodology shall provide the framework for the analysis, complemented as appropriate from other LCA methodologies compliant with the European Life Cycle Database (ELCD).

The environmental impact and the potential for an improvement without entailing excessive costs of the product groups shall be determined. If a quantified analysis is not possible a qualitative analysis shall be carried out.

The Contractor shall compare the results of the analysis to results of any LCA analysis already existing for the examined product.

### **Feasibility of setting energy labelling and ecodesign requirements**

The analysis of the environmental impact and improvement potential shall be complemented by a feasibility analysis checking the effective applicability of possible environmental requirements by manufacturers, enforcement authorities and other stakeholders. The analysis shall in particular consider:

- other relevant EU environment and energy efficiency legislation (e.g. the EPBD and EED) or failure of market forces to address the issue properly,
- links and impacts on other relevant EU policies (health and safety, labels, etc),
- existing relevant Member State, third country legislation, labels, standards, etc.,
- administrative burdens.

The analysis shall determine whether it would be appropriate to lay down energy labelling and ecodesign requirements for different product groups, giving clear reasons for inclusion or exclusion. Furthermore, the analysis shall also inform on the suitability for adopting complementary policy measures, such as eco-label or public procurement.

It is important that this sub-task builds on and goes further than the findings from the 2011 Evaluation of Ecodesign. In particular the 2011 study concluded that:

"conformity assessment [of embedded impacts of products] would have to rely on documentation in the form of certification or declaration schemes rather than testing the product itself. Such an approach is permitted by the Ecodesign Directive 2009/125/EC and a few voluntary schemes already exist. However, this approach would risk introducing substantial administrative costs for industry and a high risk of non-compliance, especially in the case of products with global supply chains, fragmented market (e.g. many food products, clothing) and with a large share of SMEs."

The contractor should assess various options for conformity assessment and verification of embedded impacts of products (i.e. those that cannot be tested on the product itself). Based on the experience from both other jurisdictions and existing voluntary and mandatory policy as well as their own analysis, the contractor shall present:

- 1) options for different type of conformity assessment and market surveillance compliance based systems that can verify embedded impacts of products
- 2) a brief assessment of costs of each of the options above
- 3) a brief assessment of the possible compliance rates achievable under the different options and a comparison with other compliance rate from EU and/or national policies (e.g. taxation, other product policies, etc).



### **Subtask 3.3 - Identification of products, product systems, power generating devices and means of transport**

An estimation of the feasibility of setting energy labelling and ecodesign requirements for the product groups identified in Subtask 3.1, based on the results of the case studies carried out in Subtask 3.2, shall be made. The product groups shall be listed in a ranking based on their absolute improvement potential and considering the applicability of energy labelling and ecodesign requirements. It shall be determined whether they shall be subject to energy labelling and ecodesign requirements, clearly providing arguments for and against.

### **Subtask 3.4 - Appropriateness of the Energy Labelling and Ecodesign Directives and impacts**

As relevant, based on the findings of subtasks 3.1 to 3.3, the Contractor shall analyse the adequacy of the requirements of the framework Directives and other relevant policy instruments or methodologies for laying down requirements for product groups studied in Task 3 and shall make recommendations of necessary changes to the existing legal framework, including to the procedures for adopting implementing measures and delegated acts, methodologies, enforcement rules, standardization. Furthermore, the Contractor shall take into account the potential need to extend the scopes of the Energy Labelling Directive and the Ecodesign Directive, to include non-energy-related products and systems.

Resulting recommendations for modifications shall be given as drafting proposals related to the text of the Directives 2010/30/EU and 2009/125/EC and/or other relevant policy instruments or methodologies.

Additionally and as applicable, for the purposes of guiding subsequent impact assessments, considerations shall be provided on the impact (economic, environmental improvements, industry's competitiveness, innovation, on consumers, etc.) of laying down the requirements for product groups studied in Task 3 and of the necessary modifications to the Energy Labelling Directive and the Ecodesign Directive.

*Expected results of Task 3: Categorisation of candidate product groups for which laying down energy labelling and ecodesign requirements is assessed appropriate and feasible, with related sales and trade volumes and key environmental impacts and the improvement potentials.*

*A ranking list of product groups determining the feasibility of laying down ecodesign and energy labelling requirements.*

*Thorough examination of the adequateness of the existing legal framework for laying down implementing measures and delegated acts for the candidate products, systems and devices.*

*Recommendations on the required changes to the Energy Labelling Directive and the Ecodesign Directive and in particular to their scopes, regulatory procedures, methodologies and enforcement rules, as well as considerations on their impact.*

*Recommendations should be presented separately for the Ecodesign Directive and the Energy Labelling Directive.*

➤ **TASK 4 – Evaluation the Ecodesign Directive 2009/125/EC**

Under Task 4, the Contractor shall re-assess two of the aspects of the Ecodesign Directive that could not be thoroughly and correctly assessed in the 2011 evaluation study carried out by the Commission:

- The effectiveness of the mandatory and self-regulatory implementing measures adopted under the Ecodesign Directive;
- The effectiveness of the standardisation process carried out for the Ecodesign Directive.

The third aspect to be reassessed (extension of scope) is the subject of Task 3 above, examining jointly the scope of the two Directives.

This study shall take into account the work performed in the framework of the 2011 evaluation study and its findings. The re-evaluation and the re-assessment, however, shall be performed on the basis of new data and evidence.

**Subtask 4.1 – Effectiveness of the mandatory implementing measures and self-regulatory measures adopted and of the standardisation process carried out under the Ecodesign Directive**

The main task is to assess the effectiveness of the implementing (mandatory and self-regulatory) measures adopted and of the standardisation process carried out under the Ecodesign Directive.

**Evaluation questions**

Contractor shall provide substantive replies to the evaluation questions. It shall provide justifications of the positions and opinions presented in the answers given to the questions and shall indicate data, information, facts and arguments supporting these positions and opinions. The contractor should ensure that a clear distinction is made in its report between the recommendations / conclusions which are backed by factual information/data/facts and those that are coming from opinion of the contractors or stakeholders. Furthermore, answers given to the questions shall be provided with a view to preparing the possible recommendations for improvements of the current legal framework or its application by the national authorities and industry (Subtask 4.2).

The tenderer is encouraged to propose in its offer further questions formulated on the basis of the evaluation questions listed below.

Questions proposed by the tenderer can also concern aspects of the implementing measures that are relevant for the evaluation but are not covered by the evaluation questions listed below.

For the purpose of Task 4, "implementing measure" shall include both mandatory measures adopted by the Commission and self-regulatory measures proposed by industry in the framework of the Ecodesign Directive.

### **Objectives of the implementing measures**

Answers to the questions in this section shall take into account the criteria for developing implementing measures defined in Article 15 of the Directive, and the aspects examined in the preparatory studies and impact assessments prepared for the adopted implementing measures.

#### ➤ Objectives

1. Have the implementing measures contributed to meeting the relevant EU policy objectives and targets?
2. Have the implementing measures fulfilled their objectives in terms of reducing energy consumption and other relevant environmental impacts?
3. What has been the impact of the ecodesign requirements on the energy consumption and on other parameters they include? For which product groups the impact was the most significant and for which the smallest? For which parameters has the impact been the most significant and for which the smallest? Please explain why and for which reasons?
4. Will the implementing measures fulfil their role in energy savings according to the 2020 targets?
5. Have the products with the biggest improvement potential been regulated?
6. Has the correct ambition level been set in the implementing measures?
7. What share of products has been phased out as a result of the requirements?
8. How does the achieved improvements compare to the results from similar policies in the relevant third countries (*e.g.* USA, China, India, Australia)?
9. Have improvements been achieved as quickly as technological development allowed?
10. Could environmental improvements have been realised with other existing regulatory instruments or without ecodesign regulatory intervention?
11. Shall ecodesign rules and principles be changed so that implementing measures could aim at phasing out products offering functionalities that are inefficient by nature (*e.g.* patio heaters for heating outdoor areas)? What would be the benefits of and obstacles in applying such an approach?

#### ➤ Addressing other life cycle phases than the use phase

12. Does the implementation of the Ecodesign Directive address other life cycle phases than the use phase in a proportionate manner, considering their significance in the product's life cycle impact and other EU legislation affecting those phases?
13. What can be learnt from the experience (of both mandatory and voluntary policy instruments) of other jurisdictions in terms of addressing the environmental impact of other life cycle phases of products than the use phase? How does the performance of the EU implementing measures compare with the performance of the measures existing under other jurisdictions? What have the main differences been? What explains these differences?
14. How could the implementation of the current Directive or the Directive itself be changed in order to put more emphasis on addressing (where appropriate) other life cycle phases than the use phase?
15. Could Directive 1999/44/EC on the sale of consumer goods and associated guarantees or other similar instruments be used to achieve appropriate improvements in the durability of the products?
16. Should requirements apply to environmental aspects not measurable on the product itself, *e.g.* applying directly to energy consumption in the production and transportation phases? If yes, to which aspects in which life cycle phases?
17. Would it be feasible to prepare requirements applying to embedded environmental

- impacts (not testable on the product itself)? What would be the biggest challenges? How could such challenges be avoided or reduced to a necessary minimum?
18. Do appropriate methodologies exist for laying down requirements on environmental aspects not determined by the design of the product?
  19. Would the current legal framework need to be changed to allow for the adoption of requirements applying to environmental aspects not measurable on the product itself? If yes, how would the legal framework need to be changed? Would such requirements be enforceable by national authorities? What would be the biggest challenges in enforcing such requirements? How could such challenges be avoided or reduced to a necessary minimum? Would the current legal framework have to be changed to enforce such requirements? If yes, how would the legal framework have to be changed? Would it be feasible to prepare verification procedures for conformity assessment and/or market surveillance authorities?
  20. What would be the impact of such requirements on manufacturers and importers?

➤ Voluntary agreements?

21. Should the possibility of laying down ecodesign requirements in the voluntary agreements be maintained?
22. Should the Directive maintain a priority of the voluntary measures over Regulations (Recital 18 of the Directive)?
23. What have been the benefits of the voluntary agreements concluded under the Ecodesign Directive?
24. What have been the costs of preparing, running and implementing voluntary agreements?
25. Have these benefits overcome costs?
26. What has been the effectiveness of the voluntary agreements concluded by industry?
27. What have been the challenges in preparing, running and implementing voluntary agreements? How could these challenges be overcome in the future?
28. How did stakeholders, the Commission and Member States authorities monitor the application of the voluntary agreements?

**Market effects and impacts on industry's competitiveness (including innovation)**

29. What have been the respective market sizes of products potentially and effectively targeted by the implementing measures?
30. What effects on the competitiveness of the different market operators (EU industry, importers, large companies, SMEs), on domestic and international markets, have had the implementing measures?
31. What effects on the production costs and profit margins for regulated products, have had the implementing measures?
32. Have there been free-riders on the market supplying non-complying products? What is the scale of the problem?
33. How have prices of regulated products been affected, in absolute terms and in users' life-cycle cost perspective?
34. What effect have the implementing measures had on consumers?
35. Have the implementing measures restricted the choice of products on the market?
36. What effect have the implementing measures had on (technological) innovation?
37. What has been the effect of the implementing measures on the market structure (e.g. relations between different actors in the supply chain, and particularly the relation between manufacturers and distributors, competitive situations of different market players, market shares of SMEs, etc.)?
38. What has been the effect on trade flows?
39. Which effect have the implementing measures had on third countries (product

- performance, third country regulations, international standards, manufacturers, etc.)? Have third countries based their legislation on the EU Regulations? What savings have been generated by the third countries legislation based on the EU Regulations?
40. How have the implementing measures impacted global harmonisation of products?
  41. Have the implementing measures added costs or administrative burdens?
  42. What have been the tangible benefits of the implementing measures for stakeholders?

### **Criteria and procedures for developing implementing measures and voluntary agreements**

#### ➤ Resources

43. What resources have been required for developing, implementing and reviewing (every 5 years) implementing measures respectively for the Commission, other EU institutions, Member States, other stakeholders?
44. What administrative burden will the implementation of the Ecodesign Directive and the implementing measures represent in the future to the Commission, assuming no loss in the effectiveness of the implementation, and taking into account the number of energy-related products already covered and to be covered.

#### ➤ Procedure

45. Is the current procedure for the adoption of implementing measures adequate for laying down ecodesign requirements for products?
46. How could the efficiency and effectiveness of the procedure (working plan + preparatory studies + Consultation Forum + Comitology) applied for developing implementing measures be improved? In this context, how beneficial would be a centralisation of the preparatory work for the implementing measures?
47. Should ecodesign requirements be laid down in horizontal measures rather than in vertical measures? What have been the benefits and disadvantages of horizontal measures? Do benefits of horizontal measures overcome their disadvantages and costs?
48. In which way and at which stage should stakeholders be involved in the preparatory and adoption process in order to ensure the proper execution of their rights and to reduce the administrative burden to the necessary minimum?
49. Could the Commission introduce common verification procedure for all product groups covered by the ecodesign requirements in one horizontal Regulation? What would be the benefits and risks?
50. Could the Commission review and revise existing implementing measures through one horizontal act (so-called 'omnibus')? What would be the benefits and risks?
51. Have stakeholders been sufficiently involved in the phases of the process of developing the implementing measures - Working Plan, studies, Consultation Forum?
52. If the current procedure for adopting implementing Regulations is not adequate for laying down ecodesign requirements, which of all relevant existing procedures would be the most adequate? Please justify your suggestion.
53. Have the requirements of the Directive (Article 15 and Annexes I and II) been adequate for identifying and covering the significant environmental parameters, (resource efficiency, energy consumption, etc.) considering the whole life cycle of products?
54. Which criteria shall be applied in assessing 'significance' of energy and non-energy impacts (e.g. in relation to total emissions/end-of-life aspects and in relation to the whole world/the EU/a particular sector/product group)?
55. With respect to the scenario analyses of the impact of the planned measures, by how much has the assumption of real term increases in energy prices (rather than of constant prices) influenced the ambition level of the resulting measures?

56. Which measurement methods could be applied to non-energy impacts? How these impacts shall be prioritised in the case of potential conflicts?
57. Has the product scope of the implementing measures been adequate?
58. Have the implementing measures provided sufficient environmental improvements justifying their development? What is the justified improvement limit?

### **Implementation and application**

#### ➤ Competences and powers

59. Did the applicable legislation (including the Ecodesign Directive, Regulation 765/2008 and Decision 768/2008) provide national authorities with the appropriate competences and powers to carry out market surveillance activities? If not, which competences and powers are missing?
60. Should provisions on "conformity assessment" in Article 8 of the Ecodesign directive, be reinforced in order to a) increase the future ability to improve overall compliance with the directive, notably by introducing third party certification where appropriate and b) set labelling requirements on aspects that cannot be verified on the product itself?

#### ➤ Enforcement

61. What has been the share of non-complying products on the EU market?
62. Have the appropriate and effective market surveillance mechanisms and procedures for cooperation been established?
63. Have Member States used EU-wide systems for exchanging market surveillance data, including RAPEX, ICSMS and CIRCA? To which extent? If not, why? What have been the challenges in using these systems?
64. What have been the impacts of Regulation 765/2008/EC and Decision 768/2008/EC on the application of the implementing measures?
65. What challenges have Member States faced when performing market surveillance? How could these challenges be overcome?
66. Is market surveillance the right tool to verify the compliance of products with the applicable requirements? If not, which other tools could be used in addition to or instead of market surveillance?
67. Should the Commission or other EU bodies be more involved in enforcement activities? Which role could they play?
68. Should market surveillance activities of Member States be (better) planned and coordinated at EU level for an optimal use of resources?
69. Have verification procedures provided in implementing measures been adequate for, hindered in any way or unnecessarily increased the costs (e.g. to Market Surveillance Authorities) of the verification of the compliance of products with the applicable requirements? Has the use of tolerances led to abuse by the manufacturers to achieve compliance for otherwise non-compliant products? If yes, what is the quantity of savings not realised due to the abuse, and how could such abuse be prevented?
70. Have stakeholders benefited from ADCO and Working Group meetings? How could these meetings be changed / improved to increase benefits for stakeholders?

#### ➤ Uniformity, campaigns, etc.

71. Have stakeholders been well informed on how to interpret and apply the implementing measures?

### **Relation to other EU policies**

72. Have the implementing measures fulfilled their policy role within the context of the SCP/SIP Communication?
73. Have the implementing measures overlapped or contradicted other policy instruments and in that case which ones and how? Is it possible to better integrate the implementing

- measures with other policy instruments, especially Energy Label, Energy Star, Ecolabel and GPP (e.g. common preparatory studies, stakeholder forums and committees)?
74. How has the interaction with the relevant environmental legislation, such as WEEE, RoHS, REACH, F-gas Directive, Emissions Trading System, IPPC functioned? What have been the main challenges? How could the interaction be improved?
  75. How has the interaction with the relevant health and safety legislation, functioned?
  76. How has the interaction with the relevant energy efficiency legislation (e.g. the Energy Labelling Directive, the Directive on the Energy Performance of Buildings and the Energy Services Directive) functioned? What have been the main challenges? How could the interaction be improved?
  77. What has been the effectiveness of the implementing measures for those product groups that can be considered part of 'technical building systems' (i.e. heating and hot water systems, air-conditioning and large ventilation systems or combinations of such systems) versus the measures that Member States have taken regarding such systems under the implementation of Directive 2010/31/EU (or its predecessor Directive 2002/91/EC)?
  78. What have been the challenges (e.g. practical, legal, institutional, etc.) in implementing both the ecodesign implementing measures and technical building system requirements in the Member States?
  79. Going forward, what would be the best regulatory framework for improving the energy efficiency of technical buildings systems and why?

#### **Effectiveness of the standardisation process carried out for the Ecodesign Directive**

80. Has standardisation fulfilled its role foreseen in the Directive in contributing to realising the ecodesign policy?
81. What types of standards, test and measurement standards, performance standards, and horizontal standards have been developed?
82. Has standardisation been effective enough to produce standards supporting implementing measures?
83. Have standards been harmonised at global level? To what extent have international standards been of value in the context of the ecodesign/energy labelling directives?
84. What effect has the inclusion of specific requirements in implementing measures had on the transparency of the legislative process for all stakeholders, on stakeholder participation, and on the speed of the legislative process compared to using standardisation for setting performance levels?
85. What have been the main obstacles in drafting and adopting the standards?
86. How could the standardization process be improved (speed up), if possible, without changing internal procedures of the Standardisation Bodies?
87. How could a greater coherence between the regulatory work on the new implementing measures and the standardization work be ensured?

***Expected results of Subtask 4.1: Thorough evaluation of the effectiveness of the implementing measures and standardization carried out for the Ecodesign Directive on the basis of the data gathered by the Contractor mainly (but not exclusively) on the basis of the provided evaluation questions).***

a) **Subtask 4.2 - Recommendations for actions on the Ecodesign Directive**

The task consists of formulating recommendations for actions on the basis of the evaluation of the effectiveness of the standardization process.

Recommendations shall aim at realising the objectives of the Ecodesign Directive and the implementing measures by improving the effectiveness of standards.

Recommendations shall be realistic and in line with the Treaty on the European Union and whenever possible make use of the existing EU policies and instruments.

Recommendations may imply modifying legal instruments and/or adapting mechanisms, procedures, methodologies or organisation of the work at EU and national levels. Recommendations for the modification of policy instruments and/or methodologies shall, when possible, be given as drafting proposals related to the texts of the policy instruments or methodologies.

The Contractor shall consult stakeholders when elaborating the recommendations and present draft recommendations in the second stakeholder meeting to check their feasibility, before including them in the draft final report.

Additionally and as applicable, for the purposes of guiding subsequent impact assessments, considerations shall be provided on the impact (effectiveness and resource use, economic, environmental improvements, industry's competitiveness, innovation, on consumers, etc.) of the recommendations.

*Recommendations on the Commission's and Member States' (in relation to the implementation of the Directive) actions to improve the realisation of the objectives of the Ecodesign Directive and the implementing measures, and to improve the standardisation work and to increase its coherence with the ecodesign regulatory work.  
Consideration of the impacts of policies related to recommendations.*

➤ **TASK 5 – Technical assistance**

After delivery of the final evaluation report on month 10, the Contractor will be asked to provide the Commission with technical assistance, including the adjustment of the final report following received comments (including from the Consultation Forum) and providing an input for discussions in the Consultation Forum, around the impact assessment, during the interservice consultation in the Commission, and in the Regulatory Committee.

**I.4. REPORTS AND DOCUMENTS TO PRODUCE – TIMETABLE TO OBSERVE**

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

In principle, the deadlines laid down below cannot be extended. The contractor is deemed solely responsible for delays occasioned by subcontractors or other third parties (except for rare cases of force majeure). Adequate resources and appropriate organisation of the work including the management of potential delays shall be put in place in order to observe the timetable below.



The stakeholder group contributes to the development of the evaluation project and is part of its consultation procedure.

The steering group assists in the management of the evaluation process and meets to review, to comment and to prepare the approval of the deliverables.

The Contractor shall provide minutes of the meetings with: the Commission, the steering group and stakeholders.

#### **I.4.1 List of deliverables and timing**

The Contractor shall provide the following deliverables in the given timeframe.

- Within two weeks after the signature of the contract, a **kick-off meeting** between the Contractor and the Commission steering group will be held at the Commission services premises in Brussels.
- **Within 1 month** after the signature of the contract, an **inception report** will be delivered. It will specify the work programme for the evaluation and describe the methodological and empirical approaches to be used for the tasks. In particular, it will include a detailed work plan to be submitted to the Commission steering group. The report will also identify any additional need for information to be collected during the evaluation. It will take the form of a draft document to be discussed with the steering group in written consultation.
- **Within 6 weeks** after the signature of the contract, the Contractor will organise a **stakeholder meeting** at the Commission services premises in Brussels in order to inform stakeholders about the organisation of the work on the study, and to collect initial views on its content. In conjunction with the stakeholder meeting, the steering group will provide further comments on the inception report during a **meeting** at the Commission services premises in Brussels.
- **Within 10 weeks** after the signature of the contract, the Contractor will present its **draft Task 1 report** and a **proposal for the questionnaire** to be posted on the "Your voice" website. It will in addition present how it is planning to proceed for the collection of further external data and elaboration of Tasks 2 – 4, in particular the data collection methodology and approach, data collection tools as well as lists of contacts to be surveyed or interviewed, interview guides and specific survey questionnaires. The steering group will provide comments on these deliverables during a **meeting** at the Commission services premises in Brussels. The Commission will then launch a **three-month public consultation** using the public questionnaire.
- **Within 4 months** after the signature of the contract, a **progress report** will be delivered. It will summarise progress on all tasks and points to be evaluated and raise any problems encountered. It will demonstrate how the existing data has been analysed, and what preliminary conclusions have been drawn from the desk research phase. The Commission shall have 60 days from receipt to approve or reject the progress report and to pay an interim payment. The Contractor shall have 20 days in which to submit additional information or a new progress report.
- The Contractor will organise a **stakeholder meeting** at the Commission services premises in Brussels **one month before the closure of the public consultation**, in which stakeholders will express their views on the questions raised in the consultation, in addition

to their written input submitted on the "Your voice" website. In conjunction with the stakeholder meeting, the steering group will provide comments on the progress report during **a meeting** at the Commission services premises in Brussels.

- **Within 8 months** after the signature of the contract, a **first findings and recommendations report** will be submitted to the Commission. This document will contain draft Tasks 1 to 4 reports and follow the structure of the final report and will include the first findings, analysis, conclusions and recommendations. At the same time, the **options and sub-options for the generic label layout** according to Subtask 2.2 shall be also submitted to the Commission.
- The Contractor will organise a **stakeholder meeting** at the Commission services premises in Brussels to discuss the first findings and recommendations report and the label layout options. The meeting will take place **within four weeks of the reception of the first findings and recommendations report**. In conjunction with the stakeholder meeting, the steering group will provide comments on the report during **a meeting** at the Commission services premises in Brussels. The Contractor shall proceed to any adjustments to the label layout options requested by the Commission and shall submit them within two weeks of the request. The Contractor's tasks with the label layout options will then be over, the last agreed versions will have to be annexed to the final report.
- **Within 10 months** after the signature of the contract, **the draft final technical report** will be delivered to the Commission, taking account of the comments made by the stakeholder and steering group on the first findings and recommendations report. It will follow the structure of the final report and cover all points of the work plan and shall include sound analysis of findings and factually based conclusions and recommendations, in line with the purpose and objectives described above. The Commission shall have 60 days from receipt to approve or reject the final evaluation report and to pay an interim payment. The Contractor shall have 20 days in which to submit additional information or a new final evaluation report.
- **Within 16 months** after the signature of the contract, a **final Assistance report** will be delivered to the Commission. The latter will report on Task 5 activities. The Commission shall have 60 days from receipt to approve or reject the final technical assistance report and to pay the balance. The Contractor shall have 20 days in which to submit additional information or a new technical assistance report.

#### **I.4.2 Reports and other deliverables format and publication**

- The Contractor shall ensure that the minutes of meetings, inception, progress, first findings, draft final and final reports under this contract are clear, concise, and operational. Each report shall focus and clearly report on what is new, the status of any findings/ conclusions/ recommendations (e.g. whether they are tentative or more final), any problems encountered and how they will be surmounted, and the next steps and timetable.
- The **final technical report** shall conform to the following format:
  1. Title page
  2. Table of Contents
  3. Executive Summary (including the recommendations)
  4. Introduction

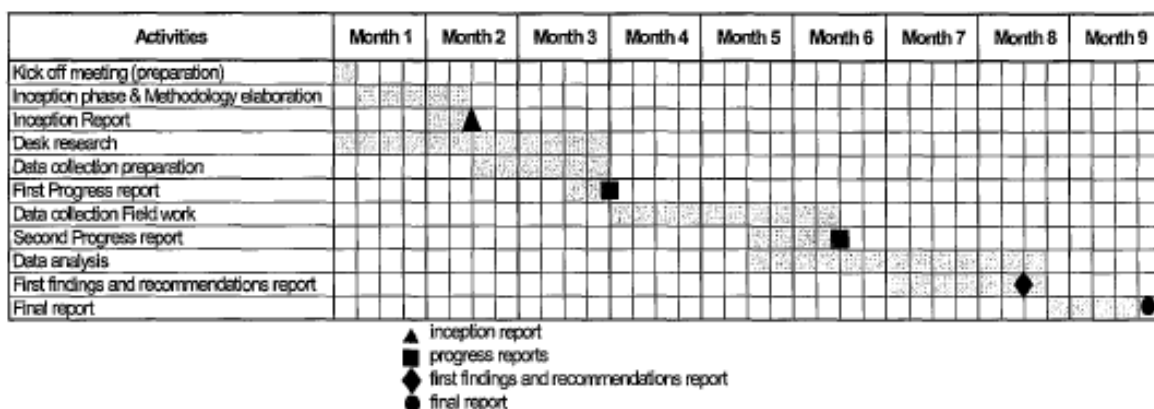
5. Task 1
6. Task 2
7. Task 3
8. Task 4
9. Conclusions and overall recommendations
10. Annexes

- The label layout options referred to in Subtask 2.2 shall be delivered at least in InDesign file format, including the drafts submitted with the first findings and recommendations report.
- The Contractor shall provide minutes of the meetings with: the Commission, the steering group and stakeholders. No confidential data shall be contained in any of the reports.
- All reports shall follow the structure of the analysis of these technical specifications and show the consistency with the methodology of the study.
- The reports and documents shall be written in English in a clear and concise form.
- The final Technical report shall be proof read and free of linguistic errors and of publishable quality and delivered both in paper (3 copies) and electronic form (Microsoft Word and Adobe PDF format). It shall include an executive summary of not more than five pages and shall be accompanied by a short (1 page) key findings and recommendations synthesis report. Supporting information and any calculation/simulation-tables will be delivered in electronic form (fully editable Excel format without access-protected parts and with instructions for use as appropriate).
- The Contractor will set up a website for the study, on which all reports and documents will be posted after their release by the Commission.
- As all evaluation reports shall be available to the public, they shall not contain any confidential data.
- Evaluations performed in or commissioned by the European Commission shall comply with the evaluation standards in force (see Annex 7).
- When approved, the final Technical report will be published on the DG Energy internet site.
- The **final Assistance report** shall conform to the following format:
  - Title page
  - Table of Contents
  - Introduction
  - Reporting on Task 5 activities
  - Annexes

## **I.5. DURATION OF THE TASKS AND WORKPLAN**

The duration of the tasks shall not exceed **18** months. This period is calculated in calendar days.

The tender shall include an estimated work plan following the example below (to be adapted by Contractor):



## I.6. PLACE OF PERFORMANCE

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

## I.7. ESTIMATE OF THE AMOUNT OF WORK INVOLVED

The amount of work involved to carry out this contract is assessed at **550 man-days** including the amount of work involved to carry out task 5 which is estimated to **7 man-days**.

## II. TERMS OF CONTRACT

In drawing up his offer, the tenderer shall bear in mind the provisions of the draft contract attached to this invitation to tender (Annex 5). Any limitation, amendment or denial of the terms of contract will lead to automatic exclusion from the procurement procedure.

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

### II.1. Terms of payment

Payments shall be made in accordance with the provisions specified in Annex 6, the draft service contract. There will be no pre-financing.

### II.2. Subcontracting

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

Tenderers must ensure that Article II.20 of the contract (Annex 6) can be applied to subcontractors. Once the contract has been signed, Article II.6 of the above-mentioned contract shall govern the subcontracting.

### **II.3. Joint tenders**

In case of a joint tender submitted by a group of tenderers, these latter will be regarded as partners. If awarded the contract, they will have an equal standing towards the contracting authority in the execution of the contract.

The tenderers should indicate in their offer whether the partnership takes the form of:

a) a new or existing legal entity which will sign the contract with the Commission in case of award

or

b) a group of partners not constituting a new legal entity, who via a power of attorney, signed by an authorised representative of each partner (except the lead partner), designate one of the partners as lead partner, and mandate him as lead contractor to sign the contract with the Commission in case of award.

If the contractor is a grouping or consortium of two or more persons, all such persons shall be jointly and severally liable to the Commission for the fulfilment of the terms and conditions of the contract. Such persons shall designate one of them to act as leader with full authority to bind the grouping or the consortium and each of its members. It shall be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration and for coordination. The composition and constitution of the grouping or consortium, and the allocation of the scope of tasks amongst the members, shall not be altered without the prior written consent of the Commission which can be withheld at discretion.

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

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

Tenders must be written in **one of the official languages** of the European Union and submitted in **triplicate** (one clearly marked "original" and two copies) as well as a copy of the offer on a CD/DVD. The attention of the tenderers is drawn to the fact that all of the deliverables requested under the contract will have to be submitted in English.

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

The original signature of the single tenderer's or lead partner's authorised representative) (preferably in blue ink) on the administrative identification form (Annex 1) shall be considered as the signature of the tender, binding the single tenderer or the group of partners to the terms included in the tender.

### **III.2. Structure of the tender**

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

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

This section must provide the following information, set out in the standard identification forms attached to these tender specifications (Annexes 1, 2, 3, 4 and 5 as well other evidence required):

- Tenderers' identification (Annex 1)

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

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

- Financial identification (Annex 2)

The **bank identification form** must be filled in and signed by an authorised representative of the tenderer and his/her banker. A standard form is attached in Annex 2 and a specific form for each Member State is available at the following Internet address:

[http://ec.europa.eu/budget/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)

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

If the corresponding bank account of economic operators is already registered in the Commission's files they are not obliged to provide a new form on the condition that they confirm that no change in the information already provided as occurred. In case of doubt, we recommend submitting a new form.

- Legal entities (Annex 3)

The legal entity form in Annex 3 must be filled in and should be accompanied by a number of supporting documents, available on the Web site:

[http://ec.europa.eu/budget/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)

In the case of a grouping, this form must be provided by all partners.

Economic operators already registered as a legal entity in the Commission's files (i.e. they are or have been contractors of the Commission) are not obliged to provide a new form on the condition that they confirm that no change in the information already provided as occurred, In case of doubt, we recommend submitting a new form.

- Declaration of honour with respect to the Exclusion criteria and absence of conflict of interest (Annex 4)

An original should be filled and signed by (an) authorised representative(s) of all partners. Only sub-contractors with a part of the contract above 20% should the sign the form.

- Power of attorney (Annex 5) – in case of grouping only

An original should be filled and signed by (an) authorised representative(s) of each partner.

- All the supporting documentation for the purpose of checking the selection criteria (IV.2) should also be submitted under this section

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

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

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

The award criteria as set out in chapter IV.3 define those parts of the technical proposal to which the tenderers should pay particular attention as they will be the ground for the evaluation of the quality of the proposal.

The technical proposal should address all matters laid down in the specifications and should include models, examples and technical solutions to problems raised in the specifications. The level of detail of the tender will be extremely important for the evaluation of the tender. Tenderers must present in their bids a proposal on the methodology and the organisation of the work to carry out in the framework of the study.

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

All tenders must contain a financial proposal. The tenderer's attention is drawn to the following points:

- Prices must be quoted in **euros**, including the countries which are not in the euro-area. As far as the tenderers of those countries are concerned, they cannot change the amount of the bid because of the evolution of the exchange rate. The tenderers choose the exchange rate and assume all risks or opportunities relating to the rate fluctuation.
- Prices must be fixed amounts and include all expenses, such as travel expenses and daily allowances.
- **Prices must be quoted free of all duties, taxes and other charges, i.e. also free of VAT**, as the European Union is exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities annexed to the Treaty on the Functioning of the European Union. Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption. For those countries where national legislation provides an exemption by means of a reimbursement, the amount of VAT is to be shown separately. In case of doubt

about the applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Union is exempt from VAT;

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

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

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

Participation in tendering procedures 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, under the conditions laid down in that agreement.

Where the Multilateral Agreement on Public Contracts concluded within the framework of the WTO applies, the contracts are also open to nationals of states which have ratified this Agreement, under the conditions provided for therein.

The procedure for the award of the contract, which will concern only admissible bids (see requirements in the invitation to tender, in particular, regarding the deadline for submission and the presentation of the offers and packaging), will be carried out in three successive stages.

The aim of each of these stages is:

- 1) to check on the basis of the exclusion criteria, whether tenderers can take part in the tendering procedure;
- 2) to check on the basis of the selection criteria, the technical and professional capacity and economic and financial capacity of each tenderer;
- 3) to assess on the basis of the award criteria each bid which has passed the exclusion and selection stages.

The assessment will be based on each tenderer's bid. All the information will be assessed in the light of the criteria set out in these specifications.



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

### IV.1.1. Exclusion criteria (Article 93 Financial Regulation<sup>6</sup>)

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

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- (f) they are currently subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation<sup>7</sup> for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a contract procurement procedure or by the authorising officer as a condition of participation in a grant award procedure, for failing to supply this information or for having been declared to be in serious breach of their obligations under contracts or grants covered by the Union budget.

2. The cases referred to in point IV.1.1. e) above shall be the following:

- a) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests established by the Council Act of 26 July 1995 (OJ/C 316 of 27.11.1995, p. 48);
- b) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, established by the Council Act of 26 May 1997 (OJ/C 195 of 25.6.1997, p. 1);
- c) cases of involvement in a criminal organisation, as defined in Article 2(1) of Joint Action 98/733/JHA of the Council (OJ/L 315 of 29.12.1998, p. 1);

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<sup>6</sup> Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248 of 16.9.2002)

<sup>7</sup> Council Regulation (EC, Euratom) n° 1605/2002 of 25 June 2002 on the Financial regulation applicable to the general budget of the European Communities, OJ L 248 of 16 September 2002, p. 1, amended by Council Regulation (EC, Euratom) n° 1995/2006 of 13 December 2006, OJ L 390 of 30 December 2006, p.1.

- d) cases of money laundering as defined in Article 1 of Council Directive 91/308/EEC (OJ/L 166 of 28.6.1991, p.77).

#### ***IV.1.2. Other cases of exclusion***

**1. In accordance with Article 94 Financial Regulation, contracts will not be awarded to tenderers who, during the procurement procedure:**

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

Tenderers must declare:

- that they do not have any conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties, or any other relevant connection or shared interest;
- that they will inform the contracting authority, without delay, of any situation constituting a conflict of interest or which could give rise to a conflict of interest;
- that they have not made and will not make any offer of any type whatsoever from which an unjustified advantage can be derived under the contract;
- that they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Contract.

The Commission reserves the right to check the above information.

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

2. As mentioned under section III.2.1., the tenderers must provide proof of **registration**, as prescribed in their country of establishment, on one of the professional or trade registers or provide a declaration or certificate.

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

1. When submitting their bids, each tenderer (including subcontractor(s) or any member of a consortium or grouping) shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations mentioned above (cf. IV.1.1 and VI.1.2). For that purpose, they must complete and sign the form attached in Annex 4. Where the tenderer is a legal entity, they shall, whenever requested by the Commission, provide information on the ownership or on the management, control and power of representation of the legal entity.
2. The tenderer to whom the contract is to be awarded shall provide, within 15 calendar days after notification of the results of the procurement procedure and in any case before the signature of the contract, the following evidence, confirming the declaration referred to above:

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

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

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

3. Depending on the national legislation of the country in which the candidate or tenderer is established, the documents referred to in paragraph 1 and 2 above shall relate to legal and/or natural persons including, if applicable with regard to points b) and e), company directors or any person with powers of representation, decision-making or control in relation to the tenderer.
4. When the subcontracted part is above 20% of the contract value, the subcontractor(s) must also provide the above-mentioned declaration on honour. In case of doubt on this declaration on the honour, the contracting authority may also request the evidence referred to in paragraphs 2 and 3 above.
5. The Commission reserves the right to request any other document relating to the proposed tender for evaluation and verification purpose, within a delay determined in its request.

**Remark:**

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

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

Without prejudice to the application of penalties laid down in the contract, candidates or tenderers and contractors who have been found guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or have failed to supply this information or have been declared to be in serious breach of their obligations under contracts covered by the Union budget may be subject to administrative or financial penalties, in accordance with Article 96 of the Financial Regulation and Articles 134b and 133a of the Implementing Rules.<sup>8</sup>

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<sup>8</sup> Commission Regulation (EC, Euratom) n° 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, OJ L 357 of 31 December 2002, p. 1, as amended.

## **IV.2. SELECTION CRITERIA (SELECTION OF TENDERERS)**

To be eligible, the tenderers must have the economic and financial capacity and the technical and professional capacity to perform the tasks required in this call for tender. In particular, the following selection criteria have been set for this tender:

### ***IV.2.1. Economic and financial capacity – References required***

The tenderer (or, for a consortium, total turnover of its members) must have an average annual turnover for the last three years for which the accounts are closed of at least 300,000.00 EUR.

Tenderers must provide proof of their financial and economic capacity by means of the following documents: profit and loss accounts for the last three financial years, where their publication is required under the company law of the country in which the economic operator is established.

An economic operator may, where appropriate and for a particular contract, 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.

Under the same conditions, a consortium of economic operators may rely on the capacities of members of the consortium or of other entities.

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

#### *Selection criteria for technical and professional capacity*

- 1) The tenderer shall have successfully completed, as contractor, at least 2 studies in the field(s) of environmental impacts of products and/or ecodesign and/or energy labelling and/or standardisation, in the past 3 years, representing each a budget of at least 100.000 € (VAT included).
- 2) The tenderer shall have experience in organising workshops and stakeholders consultations, within and outside the EU as demonstrated by at least 2 such events in the past 3 years.
- 3) The tenderer shall have access to a pool of *minimum* 5 experts with very good communication and drafting skills in English. The pool shall be composed of members having at least the following qualifications:
  - senior staff member with at least 5 years of experience in the fields of environmental impacts of products, ecodesign, energy labelling, standardisation, structure and functioning of the relevant markets and industrial sectors,
  - senior staff member with at least 5 years of experience in relevant engineering or technical field,
  - junior (qualified) experts with at least 2 years of experience in conducting legal, regulatory, technical and economic analysis.

*Evidence of the technical and professional capacity of the service provider(s)*

The following documentary proof is requested in order to check that the above criteria are fulfilled:

- A list of principal studies provided in the past 3 years that are relevant for this tender (particularly those of at least 100 000 EUR), together with a statement of the price of the service, the period of work and whether the service was rendered to public or private clients (name of client to be indicated). In the case of framework contracts, only specific contracts corresponding to assignments implemented under such framework contracts shall be considered.
- A list of the workshops and stakeholders consultations organised in the past 3 years together with their period of work and whether the service was rendered to public or private clients (name of client to be indicated). In the case of framework contracts, only specific contracts corresponding to assignments implemented under such framework contracts shall be considered.
- A proof of meeting the above criterion 3) shall be submitted:
  - Detailed curriculum vitae of each team member proposed for carrying out the work, including his or her educational background, degrees and diplomas, professional experience, research work, publications and linguistic skills. The CV's shall be presented, preferably, in accordance to the Commission Recommendation on a common European format for curricula vitae, published in OJ L79 of 22 March 2002, p. 66;
  - Each expert not employed by the tenderer shall provide a declaration that he/she is willing to participate in the execution of the tasks defined in this contract in the team of the tenderer;
  - Changes or additions to the team initially proposed shall be notified to the Commission in writing. The Commission will have the right to object to any changes of members of the team from those initially proposed.

#### **IV.3. EVALUATION OF TENDERS – AWARD CRITERIA – THE SAME**

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

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

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

The award criteria will be judged on the further elaboration of the tenderer on the information contained in the technical specifications.

Since assessment of the tenders will focus on the quality of the proposed services, tenders shall elaborate on all points addressed by these specifications in order to score as many points as possible. The mere repetition of mandatory requirements laid down in these specifications, without going into details or without giving any added value, will only result in a very low score. In addition, if certain essential points of these specifications are not expressly covered by the tender, the Commission may decide to give a zero mark for the relevant qualitative award criteria.

N°	Award Criteria	Weighting
1	<b>Understanding of the objective of the tender</b> This criterion serves to assess whether the tenderer has fully understood all the issues involved and all the aspects of what is required under this contract.	35
2	<b>Methodology of work</b> This criterion serves to assess the existence of the necessary methodology to achieve the required tasks and objectives: Clarity, completeness and full coverage of the tasks; Quality of the proposed methodology and tools for gathering, validating, analysing and presenting information; Quality and appropriateness of the proposed consultation activities.	35
3	<b>Project management and resources</b> This criterion relates to the appropriateness of the project planning and management, and of the human and financial resources allocated to cope with and fulfil the obligations of the contract (knowledge of major texts, policies, research, information sources, including ability to use them, and previous contacts with relevant actors). Quality of the work-plan and schedule.	20
4	<b>Overall clarity and presentation of the offer</b>	10
<b>Total number of points</b>		<b>100</b>

b) Total price

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

$$\text{Score for tender A} = \frac{\text{Price of lowest tender}}{\text{Price of tender A}} \times 0.3 + \frac{\text{Total quality score for award criteria for tender A}}{100} \times 0.7$$

All bids which reached the minimum technical thresholds will be ranked according to the above-mentioned formula.

#### IV.4. INFORMATION FOR TENDERERS

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

Upon written request, the Commission will inform the rejected tenderers of the reasons for their rejection and the tenderers having submitted an admissible tender of the characteristics and relative advantages of the selected tender and the name of the successful tenderer.

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

**V. ANNEXES**

1. Identification of the Tenderer
2. Financial Identification
3. Legal Entity Form
4. Declaration by the Tenderer (relating to the exclusion criteria and absence of conflict of interest)
5. Power of Attorney (mandate in case of joint tender)
6. Draft Contract
7. Evaluation standards

# ANNEX 1

## IDENTIFICATION OF THE TENDERER

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

### Call for tender ENER/C3/2012-532

Identity	
Name of the tenderer	
Legal status of the tenderer	
Date of registration	
Country of registration	
Registration number	
VAT number	
Description of statutory social security cover (at the level of the Member State of origin) and non-statutory cover (supplementary professional indemnity insurance) <sup>9</sup>	
Address	
Address of registered office of tenderer	
Where appropriate, administrative address of tenderer for the purposes of this invitation to tender	
Contact Person	
Surname: First name: Title (e.g. Dr, Mr, Ms) : Position (e.g. manager): Telephone number: Fax number: E-mail address:	
Legal Representatives	
Names and function of legal representatives and of other representatives of the tenderer who are authorised to sign contracts with third parties	
Declaration by an authorised representative of the organisation <sup>10</sup>	
I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	
Surname: First name:	Signature:

<sup>9</sup> For natural persons

<sup>10</sup> This person must be included in the list of legal representatives; otherwise the signature on the tender will be invalidated.

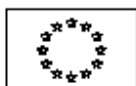


## ANNEX 2

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

A specific form for each Member State is available at the following Internet address:

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



### FINANCIAL IDENTIFICATION

PRIVACY STATEMENT

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

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

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

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

REMARKS:

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

DATE + SIGNATURE ACCOUNT HOLDER : (Obligatory)
<input type="text"/>
DATE <input type="text"/>

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

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

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

## **ANNEX 3**

### **Legal entity form**

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

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

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

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

## ANNEX 4

### DECLARATION BY THE TENDERER

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

1. In accordance with Article 93 of the Financial Regulation<sup>11</sup>, I declare on my honour that I am not in any of the following situations which would exclude me from participating in this procurement procedure:
  - a) I am not bankrupt, being wound up or having my affairs administered by the courts, I have not entered into an arrangement with creditors, I have not suspended business activities, I am not the subject of proceedings concerning any such matters, and I am not in any similar situation arising from a similar procedure provided for in legislation or regulations;
  - b) I have not been convicted of an offence concerning my professional conduct by a judgment which has the force of res judicata;
  - c) I have not been found guilty of grave professional misconduct proven by any means which the contracting authority can justify;
  - d) I have not failed to fulfil obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which I am established or with those of the country or the contracting authority or those of the country where the contract is to be performed;
  - e) I have not been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
  - f) I am currently not subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a contract procurement procedure or by the authorising officer as a condition of participation in a grant award procedure, for failing to supply this information or for having been declared to be in serious breach of their obligations under contracts or grants covered by the Union budget.
2. In addition, the undersigned declares on his or her honour:
  - a) that on the date of submission of the tender, the company or organisation I do represent and the staff proposed for this tender are not subject to a conflict of interests in the context of this invitation to tender; I undertake to inform the Commission without delay of any change to this situation after the date of submission of the tender.
  - b) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.

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

Name .....

Title .....

Signature:

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11 Council Regulation (EC, Euratom) n° 1605/2002 of 25 June 2002 on the Financial regulation applicable to the general budget of the European Communities, OJ L 248 of 16 September 2002, p. 1, amended by Council Regulation (EC, Euratom) n° 1995/2006 of 13 December 2006, OJ L 390 of 30 December 2006, p.1.

# ANNEX 5

## POWER OF ATTORNEY

### mandating one of the partners in a joint tender as lead partner and lead contractor

The undersigned:

– Signatory (Name, Function, Company, Registered address, VAT Number)

having the legal capacity required to act on behalf of his/her company,

HEREBY AGREES TO THE FOLLOWING:

- 1) To submit a tender as a partner in the group of partners constituted by Company 1, Company 2, Company N, and led by Company X, in accordance with the conditions specified in the tender specifications and the terms specified in the tender to which this power of attorney is attached.
- 2) If the European Commission awards the Contract to the group of partners constituted by Company 1, Company 2, Company N, and led by Company X on the basis of the joint tender to which this power of attorney is attached, all the partners shall be co-signatories of the Contract in accordance with the following conditions:
  - (a) All partners shall be jointly and severally liable towards the European Commission for the performance of the Contract.
  - (b) All partners shall comply with the terms and conditions of the Contract and ensure the proper delivery of their respective share of the services and/or supplies subject to the Contract.
- 1) Payments by the European Commission related to the services and/or supplies subject to the Contract shall be made through the lead partner's bank account: [Provide details on bank, address, account number].
- 2) The partners grant to the lead partner all the necessary powers to act on their behalf in the submission of the tender and conclusion of the Contract, including:
  - (a) The lead partner shall submit the tender on behalf of the group of partners.
  - (b) The lead partner shall sign any contractual documents — including the Contract, and Amendments thereto — and issue any invoices related to the Services on behalf of the group of partners.
  - (c) The lead partner shall act as a single contact point with the European Commission in the delivery of the services and/or supplies subject to the Contract. It shall co-ordinate the delivery of the services and/or supplies by the group of partners to the European Commission, and shall see to a proper administration of the Contract.

Any modification to the present power of attorney shall be subject to the European Commission's express approval. This power of attorney shall expire when all the contractual obligations of the group of partners towards the European Commission for the delivery of the services and/or supplies subject to the Contract have ceased to exist. The parties cannot terminate it before that date without the Commission's consent.

Signed in ..... on [dd/mm/yyyy]

Place and date:

Name (in capital letters), function, company and signature:

**ANNEX 6**  
**DRAFT CONTRACT**



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR ENERGY

Directorate C - Renewables, Research and Innovation, Energy Efficiency  
Director

## SERVICE CONTRACT

CONTRACT NUMBER – ENER/C3/2012-532/SI2.XXX

The European Union (hereinafter referred to as "the Union"), represented by the European Commission (hereinafter referred to as "the Commission"), which is represented for the purposes of the signature of this contract by Ms Marie Donnelly, Director in the Directorate-General for Energy, Directorate for Renewables, Research and Innovation, Energy Efficiency,

of the one part,

and

[*official name in full*]

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

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

[*official address in full*]

[*VAT registration number*]

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

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

of the other part,

## HAVE AGREED

the **Special Conditions** and the and the following Annexes<sup>12</sup>:

**Annex I** – General Conditions for service contracts

**Annex II** – Tender Specifications (Invitation to Tender No ENER/C3/2012-532 OJ n°xxx of [*insert date*])

**Annex III** – Contractor's Tender (No [*complete*] of [*insert date*])

[*Other Annexes*]

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

- The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract.
- The terms set out in the General Conditions shall take precedence over those in the other Annexes.
- The terms set out in the Tender Specifications (Annex II) shall take precedence over those in the Tender (Annex III).

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

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<sup>12</sup> Voluminous annexes may be replaced by a reference to publicly available documents.

## **I – SPECIAL CONDITIONS**

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

- I.1.1.** The subject of the Contract is to carry out a study to evaluate the effectiveness of the Energy Labelling Directive 2010/30/EU and of the implementing measures adopted under the Directives 2010/30/EU and 92/75/EEC, and to evaluate specific aspects of the Ecodesign Directive 2009/125/EC.
- I.1.2.** The Contractor shall execute the tasks assigned to him in accordance with the Tender Specifications annexed to the Contract (Annex II).

### **ARTICLE I.2 - DURATION**

- I.2.1.** The Contract shall enter into force on the date on which it is signed by the last contracting party.
- I.2.2.** Under no circumstances may implementation commence before the date on which the Contract enters into force.
- I.2.3.** The duration of the execution of the tasks shall not exceed 18 months. This period and all other periods specified in the Contract are calculated in calendar days. Execution of the tasks shall start from date of entry into force of the Contract. The period of execution of the tasks may be extended only in exceptional and duly justified cases and with the express written agreement of the parties. If the request for extension is made by the contractor, he must send it to the Commission in good time before it is due to take effect and at all events one month before the period of the execution of the tasks elapses, except in cases duly substantiated by the contractor and accepted by the Commission.
- I.2.4.** N/A

### **ARTICLE I.3 – CONTRACT PRICE**

- I.3.1.** The total amount to be paid by the Commission under the Contract shall be EUR [*amount in figures and in words*] covering all tasks executed.

This price also covers any fees payable to the Contractor in relation to the vesting of rights in the Union and where applicable the transfer of rights to the Union and any use of the results by the Commission.

- I.3.2.** Prices shall be expressed in EUR.
- I.3.3.** N/A
- I.3.4.** N/A



## **ARTICLE I.4 – PAYMENTS**

### **I.4.1 1<sup>st</sup> Interim payment**

The Contractor shall submit an invoice indicating the reference number of the Contract for an interim payment of EUR [*amount in figures and in words*] equal to 40 % of the total amount referred to in Article I.3.1.

The invoice for the first interim payment shall be accompanied by the **progress report**, which has to be delivered within 4 months after the signature of the contract, in accordance with the instructions laid down in Annex II.

The Commission shall have sixty days from receipt to approve or reject the progress report and to pay an interim payment. The Contractor shall have twenty days in which to submit additional information or a new progress report.

### **I.4.2 2<sup>nd</sup> Interim payment**

The Contractor shall submit an invoice indicating the reference number of the Contract for an interim payment of EUR [*amount in figures and in words*] equal to 50 % of the total amount referred to in Article I.3.1.

The invoice for the second interim payment shall be accompanied by the **final Technical report**, which has to be delivered within 10 months after the signature of the contract, in accordance with the instructions laid down in Annex II.

The Commission shall have sixty days from receipt to approve or reject the final Technical report and to pay an interim payment. The Contractor shall have twenty days in which to submit additional information or a new progress report.

### **I.4.3 Payment of the balance**

Within sixty days of completion of the tasks referred to in Annex II, the Contractor shall submit an invoice indicating the reference number of the Contract for payment of the balance.

The invoice shall be accompanied by the final Assistance report in accordance with the instructions laid down in Annex II.

The Commission shall have sixty days from receipt to approve or reject the final Assistance report and to pay the balance. The Contractor shall have twenty days in which to submit additional information or a new final report.

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[For Contractors established in Belgium, the provisions of the Contract constitute a request for VAT exemption No 450, article 42, paragraph 3.3 of the Belgian VAT code (circular 2/1978), provided the Contractor includes the following statement in his invoice(s): “Exonération de la TVA, article 42, paragraphe 3.3 du code de la TVA (circulaire 2/1978)” or an equivalent statement in the Dutch or German language.]

## **ARTICLE I.5 – BANK ACCOUNT**

Payments shall be made to the Contractor's bank account denominated in euro, identified as follows:

Name of bank: [complete]  
Address of branch in full: [complete]  
Exact designation of account holder: [complete]  
Full account number including codes: [complete]  
[IBAN<sup>13</sup> code: [complete]]

## **ARTICLE I.6 – GENERAL ADMINISTRATIVE PROVISIONS**

Any communication relating to the Contract or to its implementation shall be made in writing in paper or electronic form and shall bear the Contract number. Ordinary mail shall be deemed to have been received by the Commission on the date on which it is registered by the department responsible indicated below.

Electronic communication must be confirmed by paper communication when requested by any of the parties. The parties agree that paper communication can be replaced by electronic communication with electronic signature.

Communications shall be sent to the following addresses<sup>14</sup>:

### Commission:

European Commission  
Directorate-General for Energy  
Directorate C  
Unit C3  
Mr Andras Toth  
[andras.toth@ec.europa.eu](mailto:andras.toth@ec.europa.eu)  
B-1049 Bruxelles

### Contractor:

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

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<sup>13</sup> BIC or SWIFT code for countries with no IBAN code.

<sup>14</sup> Fax number and e-mail accounts may be added. If an e-mail account is given, incoming e-mails should be redirected if the account holder is absent and a clause should be added specifying what is considered to be the reference date of the electronic communication (date of sending, receiving or opening).

## **ARTICLE I.7– APPLICABLE LAW AND SETTLEMENT OF DISPUTES**

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

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

## **ARTICLE I.8 – DATA PROTECTION**

Any personal data included in the Contract shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Such data shall be processed solely for the purposes of the performance, management and monitoring of the Contract by the Director of the Shared Resource Directorate MOVE/ENER acting as data controller without prejudice to possible transmission to the bodies charged with monitoring or inspection task in application of Union law.

## **ARTICLE I.9 - USE OF THE RESULTS**

### **I.9.1 Modes of exploitation**

All studies/analysis/elaborations/thesis/materials/reports, scientific work, website layout or content, computations, documented data, database format and data, methods of creation, industrial design, discoveries produced within this Contract and for which the rights vest in the Union and thereby the Union has acquired the ownership in accordance with Article II.10 may be used in the following way:

- i) distribution:
  - publishing in paper copies
  - publishing in electronic form as downloadable/non-downloadable file
  - making available on internet
  - broadcasting
  - public presentation or display
  - communication through a press information services,
  - inclusion in widely accessible databases or indexes
  - in any form and by any method existing at this date and in the future
  - giving access on individual requests without right to reproduce or exploit, as provided for by Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents
- ii) storage:
  - in paper format
  - in electronic format
  - in original format (sculpture, maquette etc.)
- iii) archiving in line with the applicable document management rules<sup>15</sup>
- iv) modifications made by the Commission or by a third party:

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<sup>15</sup> See Decision 2002/47/EC on document management, Decision 2004/563/EC on electronic and digitised documents and the Implementing Rules SEC(2009) 1643: [http://ec.europa.eu/transparency/archival\\_policy/legal\\_basis\\_en.htm](http://ec.europa.eu/transparency/archival_policy/legal_basis_en.htm)  
In case of Contracting Authority different from the European Commission the legal base may be different.

- shortening
  - making a summary
  - modification of the content
  - technical changes to the content
  - addition of new elements, paragraphs titles, leads, bolds, legend, table of content, summary, graphics, subtitles, sound, etc.,
  - preparation in audio form, preparation as a presentation, animation, pictograms story, slide-show, public presentation etc.
  - extracting a part or dividing into parts
  - use of a concept or preparation of a derivate work
  - digitisation or converting the format for storage or usage purposes
  - translate, subtitle, dub
- v) language versions:
- official languages of EU
- vi) use for own purposes:
- making available to the staff of the Commission
  - making available to the persons and entities working for the Commission or cooperating with it, including: contractors, subcontractors whether legal or natural persons, EU-institutions, agencies and bodies, Member States institutions
  - installing, uploading, processing
  - arranging, compiling, combining, retrieving
  - making a copy, reproducing
- vii) allow use of results by third parties:
- for commercial or non commercial purposes,
  - against payment, without payment or against fulfilment of other conditions
  - assignment in full or in part
  - for a particular period or unlimited in time

Where the Commission becomes aware that scope of modifications exceeds the scope envisaged in the Contract the creator shall be consulted. The creator will be obliged to provide his response within two weeks. He shall provide his 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.9.2 Pre-existing rights, intermediaries, creators' rights**

Where industrial and intellectual property rights, including rights of ownership and use of the Contractor and third parties, exist prior to the Contract being entered into, ("pre-existing rights") the Contractor shall establish a list which shall specify all pre-existing rights and disclose it to the Commission at the latest when delivering a final result.

All pre-existing rights to delivered results shall vest in the Union and thereby under the terms of the Contract be effectively transferred to the Union, as provided for in Article I.9.1.

The Contractor shall present relevant and exhaustive proofs of acquiring all necessary rights together with delivery of the final report at the latest. The latter should be fulfilled by presentation of the contractors', all subcontractors' intermediating in the transfer of rights and creators' statements prepared in accordance with annexes A1.

**ARTICLE I.11 - CONTRACT CONCLUDED DURING STANDSTILL PERIOD**

In case this Contract was signed by both the Commission and the Contractor before the expiry of 10 calendar days from the day after simultaneous dispatch of information about the award decisions and decisions to reject, this Contract shall be null and void.

This article is not applicable for contracts not covered by Directive 2004/18/EC and in cases indicated in Article 158a(2) of the rules for the implementation of the Financial Regulation (Regulation No 2342/2002).

**SIGNATURES**

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

For the Commission,  
Marie Donnelly, Director

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

signature: \_\_\_\_\_

Done at [Brussels], [date]

Done at Brussels,

In duplicate in English.

## **II – GENERAL CONDITIONS**

### **ARTICLE II.1 – PERFORMANCE OF THE CONTRACT**

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

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

- staff executing the tasks assigned to the Contractor may not be given orders direct by the Commission;
  - the Commission may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Commission any right arising from the contractual relationship between the Commission and the Contractor.
- II.1.7.** In the event of disruption resulting from the action of a member of the Contractor's staff working on Commission premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. The Commission shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.
- II.1.8.** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the Commission. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken

by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.

**II.1.9.** Should the Contractor fail to perform his obligations under the Contract, the Commission may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, the Commission may impose penalties or liquidated damages provided for in Article II.12.

## **ARTICLE II.2 – LIABILITY**

**II.2.1.** The Commission shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of the Commission.

**II.2.2.** The Contractor shall be liable for any loss or damage sustained by the Commission in performance of the Contract, including in the event of subcontracting under Article II.6 but only up to three times the total amount of the Contract. Nevertheless, if the damage or loss is caused by the gross negligence or wilful misconduct of the Contractor or by its employees, the Contractor shall remain liable without any limitation as to the amount of the damage or loss.

**II.2.3.** The Contractor shall provide compensation in the event of any action, claim or proceeding brought against the Commission by a third party as a result of damage caused by the Contractor in performance of the Contract.

**II.2.4.** In the event of any action brought by a third party against the Commission in connection with performance of the Contract, the Contractor shall assist the Commission. Expenditure incurred by the Contractor to this end may be borne by the Commission.

**II.2.5.** The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the Commission should it so request.

## **ARTICLE II.3 - CONFLICT OF INTERESTS**

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

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

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

**II.3.3.** The Contractor declares:

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

**II.3.4.** The Contractor shall pass on all the relevant obligations in writing to his staff, board, and directors as well as to third parties involved in performance of the Contract.

#### **ARTICLE II.4 – CONFIDENTIALITY**

**II.4.1.** The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.

**II.4.2.** The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

#### **ARTICLE II.5 – DATA PROTECTION**

**II.5.1** The Contractor shall have the right of access to his/her personal data and the right to rectify any such data. Should the Contractor have any queries concerning the processing of his/her personal data, s/he shall address them to the entity acting as data controller provided for in Article I.8.

**II.5.2** The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

**II.5.3** Where the Contract 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/her rights.

**II.5.4** The Contractor shall limit access to the data to the staff strictly necessary for the performance, management and monitoring of the Contract.

**II.5.5** 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 having access to computer systems processing personal data, and especially:
  - aa) unauthorised reading, copying, alteration or removal of storage media;



- ab) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;
- ac) 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 institution or body;
- 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.6 – SUBCONTRACTING**

- II.6.1.** The Contractor shall not subcontract without prior written authorisation from the Commission nor cause the Contract to be performed in fact by third parties.
- II.6.2.** Even where the Commission authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Commission under the Contract and shall bear exclusive liability for proper performance of the Contract.
- II.6.3.** The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the Commission is entitled by virtue of the Contract, notably Article II.20.

#### **ARTICLE II.7 – AMENDMENTS**

Any amendment to the Contract shall be the subject of a written agreement concluded by the contracting parties before fulfilment of all their contractual obligations. An oral agreement shall not be binding on the contracting parties.

#### **ARTICLE II.8 – ASSIGNMENT**

- II.8.1.** The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Commission.
- II.8.2.** In the absence of such authorisation, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the Commission.

## **ARTICLE II.9 - USE, DISTRIBUTION AND PUBLICATION OF INFORMATION ABOUT THE CONTRACT**

- II.9.1.** The Contractor shall authorise the Commission to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in the Contract, in particular the identity of the Contractor, the subject matter, the duration and the amount paid. Where personal data is concerned, Articles I.8 and II.5 shall apply.
- II.9.2.** Unless otherwise provided by the Special Conditions, the Commission shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to distribute or publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the Commission.
- II.9.3.** Any distribution or publication of information relating to the Contract or use of outcome of the implementation of the Contract and provided as such by the Contractor shall require prior written authorisation from the Commission and, if so requested, shall mention that it was produced within a contract with the Commission. It shall state that the opinions expressed are those of the Contractor only and do not represent the Commission's official position.
- II.9.4.** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the Commission has specifically given prior written authorisation to the contrary.

## **ARTICLE II.10 – OWNERSHIP OF THE RESULTS - INTELLECTUAL AND INDUSTRIAL PROPERTY**

- II.10.1** A result shall be any outcome of the implementation of the Contract and provided as such by the Contractor.

A creator shall be any person who contributed to production of the result.

Pre-existing intellectual property rights, sometimes referred to as background technology, are any industrial and intellectual property rights which exist prior to the contract being entered into and include rights of ownership and use of the Contractor, the Commission and any third parties ("pre-existing rights").

It shall be a material term of the Contract and of the essence of the Contract that Contractors shall be under a duty to provide a list of pre-existing rights at the date of delivery of the final result the latest.

- II.10.2** The ownership of all the results or rights thereon as listed in the tender specification and the tender attached to the contract, including copyright and other intellectual or industrial property rights, and all technological solutions and information embodied therein, obtained in performance of the Contract, shall be irrevocably and fully vested to the Union, which may use them as described in the Contract. All the rights shall be vested on the Union from the moment the results were delivered and accepted by the Commission.

For the avoidance of doubt and where applicable, any such vesting of rights is also deemed to constitute an effective transfer of the rights from the Contractor to the Union.

The payment of the fee under Article I.3 is deemed to include all forms of use by the Union of the results as set out in Article I.9.

The above vesting of rights in the Union under this Contract covers all territories worldwide and is valid for the whole duration of intellectual property rights protection.

- II.10.3** Any intermediary sub-result, raw data, intermediary analysis made available to the Commission by the Contractor cannot be used by the Union without written consent of the Contractor, unless the tender specification explicitly provides for it to be treated as self-contained result.
- II.10.4** The Contractor retains all right, title and interest in pre-existing rights not fully vested into the Union in line with Article I.9.2, and hereby grants the Union for the requested period a licence to use the pre-existing rights to the extent necessary to use the delivered results.
- II.10.5** The Contractor shall ensure that delivered results are free of rights or claims from third parties including in relation to pre-existing rights, for any use envisaged by the Commission. This does not concern the moral rights of natural persons and rights referred to in Article II.10.4.
- II.10.6** The Contractor shall clearly point out all quotations of existing textual works made by the Contractor. The complete reference should include as appropriate: name of the author, title of the work, date of publishing, date of creation, place of publication, address of publication on internet, number, volume and other information allowing to identify the origin easily.
- II.10.7** The Contractor shall clearly indicate all parts to which there are pre-existing rights and all parts of the result originating from external sources: parts of other documents, images, graphs, tables, data, software, technical inventions, know-how etc. (delivered in paper, electronic or other form).

For non-textual results or results provided in electronic form only, the description, instruction or information document shall list all parts coming from external sources: 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.

- II.10.8** If the Commission so requires, the Contractor shall provide proof of ownership or rights to use all necessary rights to the materials referred to in Article II.10.7.
- II.10.9.** By delivering the results the Contractor confirms that the creators undertake not to oppose their names being recalled when the results are presented to the public and confirms that the results can be divulged.

The Contractor shall possess all relevant agreements of the creator and provide proof by way of documentary evidence.

- II.10.10.** By delivering the results the Contractor warrants that the above transfer of rights does not violate any law or infringe any rights of others and that he possesses the relevant rights or powers to execute the transfer. He also warrants that he has paid or has verified payment of all fees including fees to collecting societies, related to the final results.
- II.10.11.** The Contractor shall indemnify and hold the Union harmless for all damages and cost incurred due to any claim brought by any third party including creators and intermediaries for any alleged breach of any intellectual, industrial or other property right based on the Union 's use of the works and in relation to which the Contractor has granted the Union user rights.

## **ARTICLE II.11 – FORCE MAJEURE**

- II.11.1.** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.
- II.11.2.** Without prejudice to Article II.1.8, if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.11.3.** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.11.4.** The contracting parties shall take the necessary measures to reduce damage to a minimum.

## **ARTICLE II.12 – LIQUIDATED DAMAGES**

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the Commission's right to terminate the Contract, the Commission may decide to impose liquidated damages per calendar day of delay according to the following formula:

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

*V* is the amount specified in Article I.3.1;

*d* is the duration specified in Article I.2.3 expressed in days

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

## **ARTICLE II.13 – SUSPENSION OF THE CONTRACT**

Without prejudice to the Commission's right to terminate the Contract, where the Contract is subject to substantial error, irregularity or fraud the Commission may suspend execution of the Contract or any part thereof. Suspension shall take effect on the day the Contractor receives notification by registered letter with acknowledgment of receipt or equivalent, or at a later date where the notification so provides. The Commission shall as soon as possible give notice to the Contractor to resume the service suspended or inform that it is proceeding with contract termination. The

Contractor shall not be entitled to claim compensation on account of suspension of the Contract or of part thereof.

## **ARTICLE II.14 – TERMINATION BY THE COMMISSION**

**II.14.1.** The Commission may terminate the Contract in the following circumstances:

- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
- (c) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of professional misconduct;
- (d) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- (e) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the Contract;
- (f) where the Contractor is in breach of his obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by the Commission as a condition of participation in the Contract procedure or failed to supply this information;
- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Commission's opinion, have a significant effect on the performance of the Contract;
- (i) where execution of the tasks has not actually commenced within three months of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Commission;
- (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- (k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

**II.14.2.** In case of force majeure, notified in accordance with Article II.11, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period laid down in Article I.2.3.

**II.14.3.** Prior to termination under point c), d), e), h) or k), the Contractor shall be given the opportunity to submit his observations.

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

#### **II.14.4. Consequences of termination**

In the event of the Commission terminating the Contract in accordance with this article and without prejudice to any other measures provided for in the Contract, the Contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

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

On termination the Commission may engage any other contractor to execute or complete the services. The Commission shall be entitled to claim from the Contractor all extra costs incurred in doing so, without prejudice to any other rights or guarantees it has under the Contract.

#### **ARTICLE II.14a – SUBSTANTIAL ERRORS, IRREGULARITIES AND FRAUD ATTRIBUTABLE TO THE CONTRACTOR**

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

#### **ARTICLE II.15 – INVOICING AND PAYMENTS**

##### **II.15.1. Pre-financing guarantee:**

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

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

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

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

##### **II.15.2. Interim payments and payment of the balance:**

Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by which the invoice is submitted.

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

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

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

Approval of the progress report shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations or information it contains.

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

### **II.15.3. Payment currency and costs:**

Payments are executed in the currency of the contract.

Costs of the transfer are borne in the following way:

- costs of dispatch charged by the bank of the Commission are borne by the Commission,
- cost of receipt charged by the bank of the Contractor are borne by the Contractor,
- all costs of repeated transfer caused by one of the parties are borne by the party who caused repetition of the transfer.

## **ARTICLE II.16 – GENERAL PROVISIONS CONCERNING PAYMENTS**

**II.16.1.** Payments shall be deemed to have been made on the date on which the Commission's account is debited.

**II.16.2.** The payment periods referred to in Article I.4 may be suspended by the Commission at any time if it informs the Contractor that his invoice is not admissible, either because the amount is not due or because the necessary supporting documents have not been properly produced. The Commission may proceed with further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the invoice is admissible.

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

**II.16.3.** In the event of late payment the Contractor shall be entitled to interest, provided the calculated interest exceeds EUR 200. In case interest does not exceed EUR 200, the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations (“*the reference rate*”) plus eight percentage points (“*the margin*”). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following

expiry of the time limit for payment up to the day of payment. Suspension of payment by the Commission may not be deemed to constitute late payment.

## **ARTICLE II. 17 – TAXATION**

- II.17.1.** The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.
- II.17.2.** The Contractor recognises that the Commission is, as a rule, exempt from all taxes and duties, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.
- II.17.3.** The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.
- II.17.4.** Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

## **ARTICLE II.18 - REIMBURSEMENTS**

- II.18.1.** Where provided by the Special Conditions or by Annex II, the Commission shall reimburse the expenses which are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets.
- II.18.2.** Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.
- II.18.3.** Travel expenses shall be reimbursed as follows:
- a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
  - b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
  - c) travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;
  - d) travel outside Union territory shall be reimbursed under the general conditions stated above provided the Commission has given its prior written agreement.
- II.18.4.** Subsistence expenses shall be reimbursed on the basis of a daily allowance as follows:
- a) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;
  - b) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;
  - c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including accommodation, meals, local transport, insurance and sundries;
  - d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article I.3.
- II.18.5.** The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the Commission has given prior written authorisation.



**II.18.6.** Conversion between the euro and another currency shall be made using the daily euro exchange rate published in the C series of the *Official Journal of the European Union* of the day on which the expense was made.

#### **ARTICLE II.19 – RECOVERY**

**II.19.1.** If total payments made exceed the amount actually due or if recovery is justified in accordance with the terms of the Contract, the Contractor shall reimburse the appropriate amount in euro on receipt of the debit note, in the manner and within the time limits set by the Commission.

**II.19.2.** In the event of failure to pay by the deadline specified in the debit note, the sum due shall bear interest at the rate indicated in Article II.16.3. Interest shall be payable from the calendar day following the due date up to the calendar day on which the debt is repaid in full.

**II.19.3.** The Commission may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on the Union that is certain, of a fixed amount and due. The Commission may also claim against the guarantee, where provided for.

#### **ARTICLE II.20 – CHECKS AND AUDITS**

**II.20.1.** Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the Union from signature of the Contract up to five years after payment of the balance.

**II.20.2.** The Commission or an outside body of its choice shall have the same rights as the Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to five years after payment of the balance.

**II.20.3.** In addition, the European Anti Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance.

## ANNEX [A1]

### Statement of Contractor concerning right to delivered result

I, [*insert name of the authorised representative of the Contractor*] representing [*insert name of the Contractor*], party to the Contract [*insert title and/or number of the contract*] warrants that the Contractor holds full right to the delivered [*insert title and/or description of result*] which is free of any claims, including claim of the creators who transferred all their rights and [were fully paid] [will be paid as agreed within [*complete*] weeks from [delivery of this statement.] [receipt of confirmation of acceptance of the work].

Date, place, signature

# ANNEX 7

## DRAFT CONTRACT

### EVALUATION STANDARDS

The following standards apply to the evaluations performed or commissioned by the Commission services:

#### Context and purpose

Evaluation involves a judgement of interventions according to their results, impacts and needs they aim to satisfy. It is a systematic tool which provides a rigorous evidence base to inform decision-making and contributing to making Commission activities more effective, coherent, useful, relevant and efficient. Evaluation also enhances transparency, learning and accountability. To achieve this, the Commission's evaluation standards aim to ensure relevant and timely evaluations of high quality and that evaluation results are communicated to decision-makers and other relevant stakeholders in a clear and transparent manner to facilitate the use of evaluation results.

In light of the above objectives, the standards are grouped into five categories:

- Resources and organisation of evaluation activities (A1-A3),
- Planning evaluation activities (B1-B5),
- Designing evaluations (C1-C3),
- Conducting evaluations (D1-D5), and
- Dissemination and utilisation of evaluation results (E1-E5).

The standards are expressed as a set of guiding principles. For each guiding principle, a number of baseline requirements (forming an integral part of the standards) have been defined which should contribute to achieving compliance with the overriding principle. Meeting the baseline requirements will hence be important, but not necessarily sufficient, to ensure full compliance with the guiding principles.<sup>16</sup>

The standards are an integral part of the Commission's Internal Control Standard n°23 on evaluation, which means that they are binding and that the way they are implemented may be audited on this basis.

#### Scope

The standards apply to Commission evaluations of policy instruments such as expenditure programmes, legislation and other non-spending activities.<sup>17</sup> The standards are binding upon all DGs and Services of the Commission with activities that affect entities outside the European institutions (e.g. organisations, companies and citizens).

The standards also apply where a DG performs evaluation of internal policies or service provision. However, additional organisational structures are not necessarily needed in these cases. The key issue is to clarify *who* is responsible for *what* and it is the responsibility of the Director General to consider the most appropriate way of organising evaluation activities in accordance with their needs.

The standards apply to the different temporal types of evaluations. However, whilst the *guiding principles* for designing and conducting evaluations and dissemination and utilisation of evaluation results apply to all types of evaluation, the corresponding *baseline requirements* refer only to retrospective or combinations of retrospective evaluations (interim, final and ex-post).

By contrast, purely prospective evaluations (ex-ante and impact assessments) must be carried out in accordance with DG Budget's guide for ex-ante evaluation<sup>18</sup> or the Commission's Impact Assessment Guidelines to ensure adequate quality.

Moreover, the standards apply irrespective of the nature of the author of the evaluation, i.e. to both internal and external evaluations (and combinations thereof).

#### A) RESOURCES AND ORGANISATION OF EVALUATION ACTIVITIES

##### **Evaluation activities must be appropriately organised and resourced to meet their purposes.**

1. Each Directorate General must have an evaluation function with a clearly defined responsibility for coordinating and monitoring evaluation activities of the Directorate General (from the planning of evaluations

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<sup>16</sup> The implementation of the baseline requirements will normally need to be complemented by additional measures, such as developing and implementing good practices or the various actions set out in the present Communication

<sup>17</sup> Separate evaluations of individual projects financed under programmes are not subject to these standards. However, project evaluations required by specific provisions, for example pilot projects, are covered by the standards

<sup>18</sup> The existing ex-ante guidelines will be updated and developed to be more complementary to the impact assessment guidelines (action 12.1).

until their dissemination and use), promoting quality of evaluation and organisational learning, and assisting the central services in the implementation of the Commission Evaluation Policy.

2. Each Directorate General must ensure that human and financial resources are clearly identified and proportionately allocated for evaluation activities to be carried out.<sup>19</sup>

3. Each Director General must clearly define the tasks, responsibilities, organisation and procedures for all actors involved in planning, designing and conducting evaluations, and disseminating and using evaluation results.

#### B) PLANNING EVALUATION ACTIVITIES

**Evaluation activities must be planned in a transparent and consistent way so that relevant evaluation results are available in due time for operational and strategic decision-making and reporting needs.**

1. An annual evaluation plan and an indicative multi-annual evaluation programme are to be prepared by the evaluation function in consultation with the other units in the Directorate General and integrated in the Annual Management Plan.

2. The multi-annual evaluation programme must be drawn up on the basis of the life cycle of the interventions, the operational and strategic decision-making needs of the Directorate General, general requirements for evaluation, and any specific requirement for evaluation as set out in the legal base of the intervention.

3. All activities addressed to external parties must be periodically evaluated in proportion with the allocated resources and the expected impact.

4. The timing of evaluations must enable the results to be fed into decisions on the design, renewal, modification or suspension of activities.

5. All relevant services (in particular the evaluation function, SPP/policy planning coordinators, IA coordinators and key operational units) must contribute to or be consulted on the annual evaluation plan and the indicative multi-annual evaluation programme.

#### C) DESIGNING EVALUATIONS

**Evaluation design must provide clear and specific objectives, and appropriate methods and means for managing the evaluation process and its results.**

1. Save in duly justified cases, a steering group must be set up for each evaluation to advise on the terms of reference, support the evaluation work and take part in assessing the quality of the evaluation at the appropriate regularity; its composition must be adjusted to the specific needs and circumstances of each evaluation and the evaluation function must be advised thereon.

2. Terms of reference must be established for each external evaluation and a corresponding document/mandate must be established for each internal evaluation, which must at least specify the following points: purpose and objectives, key questions, scope, expected outputs, deadlines, and quality criteria.<sup>20</sup>

3. Issues of relevance to all services concerned must be considered for the terms of reference.

#### D) CONDUCTING EVALUATIONS

**Evaluation activities must be conducted to provide reliable, robust and complete results.**

1. The evaluation must be conducted in such a way that the results are supported by evidence and rigorous analysis.

2. All actors involved in evaluation activities must comply with principles and rules regarding conflict of interest.

3. Evaluators must be free to present their results without compromise or interference, although they should take account of the steering group's comments on evaluation quality and accuracy.

4. The final evaluation reports must as a minimum set out the purpose, context, objectives, questions, information sources, methods used, evidence and conclusions.

5. The quality of the evaluation must be assessed on the basis of the pre-established criteria throughout the evaluation process and the quality criteria must as a minimum relate to relevant scope, appropriate methods, reliable data, sound analysis, credible results, valuable conclusions and clarity of the deliverables.

#### E) DISSEMINATION AND UTILISATION OF EVALUATION RESULTS

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<sup>19</sup> Especially in the SPP cycle within the APS and AMP exercises

<sup>20</sup> The evaluation questions should reflect the following evaluation issues whenever relevant: effectiveness, efficiency/cost-effectiveness, relevance, coherence, sustainability, utility and/or Union added value, and where relevant the contribution to broader strategic objectives. Additional evaluation issues may also have to be added to the terms of reference

**Evaluation results must be communicated in such a way that it ensures the maximum use of the results and that they meet the needs of decision-makers and stakeholders.**

1. The evaluation results must be examined by the services concerned, who must outline the actions they propose to take towards the formulation, planning and/or revision of the relevant interventions, in accordance with procedures set out by the Director General (cf. standard A1).
2. Evaluation results must be communicated effectively to all relevant decision-makers and other interested stakeholders/parties.
3. The evaluation results must be made publicly available<sup>21</sup> and targeted summary information should be prepared to facilitate communication to the general public.
4. The evaluation function must promote the use of evaluation in decision-making and organisational learning by ensuring that policy implications and lessons learnt from (and across) evaluations are synthesised and disseminated.

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<sup>21</sup> Unless a case for confidentiality can be made under one of the exceptions provided for in article 4 of Regulation 1049/2001 of the European Parliament and the Council, 30 May 2001