



EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENERGY AND TRANSPORT

Luxembourg, le 20.10.2008
TREN/H4/KS/ch D(2008) 433514

INVITATION TO TENDER No. TREN/I1/248-2008

(open procedure)

Dear Sir/Madam,

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

"Deposit Boxes Arrangement, Schliessfachanlage, Armoire à casiers"

This invitation to tender follows the publication of:

- the contract notice in OJEU **2008/S 203-268714**

2. If you are interested in this contract, please submit an offer in **triplicate**, in one of the official languages of the European Union.

Offers must be:

- (a) **either sent by registered mail or by private courier**

The offer shall be sent by registered mail or by private courier, dispatched not later than **12/12/2008** (the postmark or the receipt issued by the courier service serving as proof of the dispatch) to the following address:

European Commission
Directorate-General Energy and Transport
For the attention of Mr Klaus Schnuer - EUFO 4455
Jean Monnet Building
Plateau du Kirchberg
L-2920 Luxembourg

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

Offers shall be delivered by hand at the **Central Mail of the European Commission** by **12/12/2008 not later than 4 p.m.** (Brussels time), at the following address:

European Commission
Directorate-General Energy and Transport
For the attention of Mr Klaus Schnuer
Jean Monnet Building – main entrance
Rue Albert Wehrer,
Plateau de Kirchberg,
L-2920 Luxembourg

In this case, a receipt must be obtained as proof of submission, signed and dated by the official in the Commission's central mail department who took the delivery. The department is open from 08.00 to 16.00 Monday to Friday. It is closed on Saturdays, Sundays and Commission holidays.

3. Offers shall be placed inside two sealed envelopes, one inside the other. **The inner envelope should be marked:**

Call for tenders No. TREN/I1/248-2008
not to be opened by the internal mail department
European Commission
Directorate-General for Energy and Transport
Unit H4 Radiation Protection
Euroforum Building – Room 4455
L-2920 Luxembourg

If self-adhesive envelopes are used, they shall be sealed with adhesive tape and the sender shall sign across this tape.

The non-compliance with these formal conditions will entail the rejection of the bids at the opening session.

4. Offers will be opened at **10:30 a.m. on 22/12/2008**

At:

European Commission
Directorate-General Energy and Transport
EUFO Building Room 4158
1. rue Henry M. Schnadt
L-2530 Luxembourg

This opening session will be public. Each tenderer may be represented by not more than one person. At the end of the opening session, the Chairman of the opening committee will indicate the name of the tenderers and the decision concerning the admissibility of each offer received. The prices mentioned in the offers will not be communicated.

5. The specifications including documents to be filled in and the draft contract are attached to this letter. Valid offers shall include these filled in documents. Documents supporting the evidence of economic, financial, technical and professional capacity of the tenderer shall be produced and submitted as part of the offer.

6. The offers shall be signed by the tenderer or his duly authorised representative and perfectly legible so that there can be no doubt as to words and figures.
7. The offer shall be valid for a period of six months as from the final date for submission of tenders mentioned under point 2 above.
8. Submission of an offer implies acceptance of all the terms and conditions set out in this invitation to tender, in the specification, in the draft contract and, where applicable, waiver of the tenderer's own general or specific terms and conditions. The terms and conditions are binding on the tenderer to whom the contract is awarded during the performance of the contract.
9. Contacts between the awarding authority and tenderers are prohibited throughout the procedure except in exceptional circumstances and under the following conditions only:

Before the closing date for submission of offers

- At the request of the tenderer, the awarding authority may provide additional information solely for the purpose of clarifying the nature of the contract.

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

Mr. Klaus Schnuer
European Commission, TREN H4-CPS
EUFO Building 4455
L-2920 Luxembourg
Tel: +352 4301 36388
Fax: +352.4301.34646
e-mail:Klaus.Schnuer@ec.europa.eu

- The Commission may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other material shortcoming in the text of the tenderer's documents.

Further information will be sent simultaneously to all tenderers who have requested the specification in writing, where this is appropriate. Tenderers who have downloaded the documents from the Directorate-General Energy and transport website (DG TREN) are invited to consult this site regularly until the deadline for submission.

After the opening of offers

If an offer requires clarification, or if there is a need to correct material errors which have occurred in the drafting of the offer, the Commission may take the initiative and contact the tenderer(s). Such contact shall not lead to the conditions of the offer being altered in any way.

10. This invitation to tender is in no way binding on the Commission. A commitment will come about only when a contract with the successful tenderer has been signed.

Until a contract is signed, the awarding authority may decide not to award a contract or to cancel the tendering procedure, without the candidates or tenderers being entitled to claim any compensation. Where appropriate, the decision will be substantiated and brought to the attention of the tenderers.

11. Tenderers will be informed of whether their offers have been accepted or rejected.

12. The follow-up of your response to the invitation to tender will require the recording and further processing of personal data (i.e. name, address, CV, etc.). This data will be processed in accordance with the requirements of Regulation (CE) 45/2001 on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data. Unless if otherwise stated, replies to questions and personal data requested are necessary for the purpose of assessing your offer (according to the specifications of the invitation to tender) and will only be processed within DG TREN as data controller, for this purpose. You may, upon request, have your personal data sent to you and rectify any inaccurate or incomplete particulars. Should you have any queries concerning the processing of your personal data, please address them to the entity acting as data controller within DG TREN. As regards the processing of your personal data, you have the right to bring the matter before the European Data Protection Supervisor at any time.
13. You are informed that for the purposes of safeguarding the financial interest of the Communities, your personal data may be transferred to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF).

Data of economic operators which are in one of the situations referred to in Articles 93, 94, 96(1)(b) and 96(2)(a) of the Financial Regulation may be included in a central database and communicated to the designated persons of the Commission, other institutions, agencies, authorities and bodies mentioned in Article 95(1) and (2) of the Financial Regulation. This refers as well to the persons with powers of representation, decision making or control over the said economic operators. Any party entered into the database has the right to be informed of the data concerning it, up on request to the accounting officer of the Commission.

Yours faithfully,

Stamatios Tsalas
Acting Director

TENDER SPECIFICATIONS
ATTACHED TO THE INVITATION TO TENDER

Invitation to tender No. TREN/I1 /248 -2008 concerning

Deposit Boxes Arrangement
Schliessfachanlage,
Armoire à casiers

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I. SPECIFICATIONS

I.1. Introduction

Specialised European Commission staff members need for accomplishment of their duties personal documents and equipment. Due to personal data protection reasons these items need to be safely locked and only accessible by the individual holder. Therefore, the Directorate General for Energy and Transport, in particular the service responsible for health protection would like to install inside the Commission office building, EUROFORUM, in the Cloche d'Or area in Gasperich, Luxembourg, an installation similar to a deposit boxes arrangement or letter distribution system installed in post offices or in bank buildings.

I.2. Purpose of the contract

The European Commission Directorate General for Energy and Transport would like to purchase an arrangement consisting of about 240 individual letterbox type small lockers. Each locker should be locked by an individual key or by an electronic system. In order to have access to all of these individual lockers at the time, there should be a possibility to open a group of lockers together in one action. Therefore, an even number of the small doors for the individual lockers shall be mounted in a larger door frame. It should be possible to open this door frame in order to give direct access to the small lockers behind. Since the installation will stand against the wall, this common opening must be done to the front of the installation.

The items to be stored in each of the small lockers are one standard EU passport size document and two items of about a mobile phone size.

Therefore, the inside dimension of each locker should be in the order of 18 cm wide, 20 to 25 cm deep and between 6 and 8 cm high.

Each locker should be individually closed and locked. The opening may be done by an individual key or electronically from a central control unit by introducing an individual code number.

In case of a key system each locker door shall show an engraved running number.

There should be a drawer in each of the lockers with a possibility to attach a label at the front side.

The installation should be separated into two blocks with half number of the lockers in each arrangement. The outside dimension should not exceed the length of 2,20 meter each. The lower row of lockers should be about 60 cm from ground level and the upper row should be not more than 160 cm above ground level. Therefore, the installation should stand on a rack type support.

The installation will be placed inside the building on PVC covered concrete floor and only fixed against a concrete wall.

- The side walls of the whole installation may be painted (RAL colour to be defined) but the individual locker's front doors should be made of polished or brushed metal surface. Since the installation is under permanent surveillance, there are no specific

safety requirements but the lockers should be burglar-proof against the use of normal housebreaking tools.

As a supplement to this locker installation two deposit safes should be delivered which allow depositing a large number of the above described items in each of these safes. The two safes should stand beside each of the locker arrangements.

I.3. Work program:

Execution of the tasks begins after the date on which the contract enters into force. A **technical meeting** will take place in the Commission EUROFORUM office building in Luxembourg at the latest 20 days following the signature of the contract. During this meeting all remaining technical and administrative details shall be discussed in particular the services to be provided by the Contractor for the reception, the transport, setting up the installation inside the building.

I.3.1. Design of the installation:

The Contractor shall inform the Commission DG TREN-Health Protection Cell in Luxembourg, after the final design of the installation has been established. The DG-TREN HPC shall have 10 days to approve the design before the production of the installation will start.

I.3.2. Setting up of the installation:

The Contractor shall inform the Commission Office for Infrastructure in Luxembourg, OIL, at the latest 14 days before the foreseen setting up of the installation inside the EUFO building. The names of the workers in charge with setting up of the installation have to be submitted together with this information.

I.3.3. Service maintenance and repair:

The contractor shall ensure full warranty over a period of two years following the acceptance of the work by the Commission. Furthermore, the contractor shall be able to provide maintenance work for all parts of the installation at the latest 24 hours following a request for repair or maintenance.

I.4. Reports and product to produce - Timetable to observe

The following requirements are applicable for the contract regardless any subcontracting.

The foreseen contracts will cover a 12 months period starting at the date of the signature of the contract by the Commission.

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

I.4.1. Interim reports

As soon as the final design is established, an interim report shall be submitted to the Commission providing all technical details of the foreseen installation. The Commission will approve the design and inform the contractor 20 days after receipt of the interim report.

1.4.2. Final product

The contractor shall submit a technical users manual of the final product to the Commission at the latest 11 months after the signature of the contract.

The Commission shall have thirty days to verify the final product at the manufacturers premises in order to approve or reject the final version of the locker box installation, and the Contractor shall have 20 days to modify or manufacture a new version.

I.5. Duration of the tasks

The foreseen contract will cover a 12 calendar month period starting before the end of year 2008.

I.6. Place of performance

The tasks will be performed on the Contractor's premises and the deposit boxes arrangement will be installed inside the Commission's EUROFORUM office building in Luxembourg.

I.7. Estimate of the amount of work involved

The amount of work involved to carry out the contract is assessed to be in the order of 130 man-days.

The total budget shall include all expenses for travelling and for organising meetings in Luxembourg.

II. TERMS OF CONTRACT

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

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

II.1. Terms of payment

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

II.2. Financial guarantees

Guarantee on pre-financing

Pre-financing is not foreseen

II.3. Subcontracting

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

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

II.4. Legal form to be taken by the grouping of service providers to whom the contract is awarded (if applicable)

Groupings, irrespective of their legal form, may submit bids. Tenderers may, after forming a grouping, submit a joint bid on condition that it complies with the rules of competition. Such groupings (or consortium) must specify the company or person heading the project and must also submit a copy of the document authorising this company or person to submit a bid. If awarded, the contract will be signed by the company or the person heading the project, which will be, vis à vis the Commission, the only contracting party responsible for the performance of this contract. Tenders from a consortium of firms or groups of service providers, contractors or suppliers must specify the role, qualifications and experience of each member of the consortium or group. Each member must provide all the necessary documents for assessing the bid as a whole with regard to the exclusion criteria, selection criteria (in their entirety) and award criteria.

III. FORM AND CONTENT OF THE OFFER

III.1. General

Offers shall be written in **one of the official languages** of the European Union.

Offers must be clear and concise, with continuous page numbering, and assembled in a coherent way (e.g. bound or stapled, etc...). Since tenderers will be judged on the content of their written offer, they shall make clear that they are able to meet the requirements of the specifications.

III.2. Structure of the tender

All offers shall include three individual sections:

- Administrative section
- Technical section
- Financial proposal

III.2.1. Section One: Administrative section

This section must provide the following information, set out in the standard identification forms attached to these tender specifications (Annexes 1, 2 and 3):

- Tenderers' identification (Annex 1)
 - All tenderers must provide proof of **registration**, as prescribed in their country of establishment, on one of the **professional or trade registers** or provide a declaration or certificate.
 - If the tenderer is a natural person, he/she must provide a copy of the identity card/passport or driving licence and proof that he/she is covered by a social security scheme as a self-employed person.

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

- Financial identification (Annex 2)

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

http://ec.europa.eu/budget/execution/ftiers_en.htm

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

- Legal entities (Annex 3)

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

http://ec.europa.eu/budget/execution/legal_entities_en.htm

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

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

III.2.2. Section Two: Technical section

This section is of great importance in the evaluation of the offer and for awarding the contract.

The technical proposal shall provide all information needed for the purpose of awarding the contract. Priority is given to the most cost effective proposal taking into account the technical quality and features of the foreseen deposit boxes arrangement.

III.2.3. Section Three: Financial proposal

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

- Prices must be quoted in **Euro**, including those from countries which are not in the Euro-area. As far as the tenderers of those countries are concerned, they cannot change prices of the offer 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 should be quoted free of all duties, taxes and other charges, i.e. also free of VAT**, as the Communities are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 (OJ L 152 of 13 July 1967). Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption. For those countries where national legislation provides an exemption by means of a reimbursement, the amount of VAT is to be shown separately. In case of doubt about the applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Community is exempt from VAT;
- **Prices shall be** fixed and not subject to revision during the performance of the contract;
- For each category of staff involved in the project, the tenderer must specify:
 - the total labour costs;

- **the daily rates** and **total number of days** (man/days) each member of staff will contribute to the project;
- other categories of costs, indicating the nature of the cost, the total amount, the unit price and the quantity.

Offers involving more than one service provider (consortium) shall specify the amounts indicated above for each provider.

IV. ASSESSMENT AND AWARD OF THE CONTRACT

The assessment will be based on each tenderer's offer.

All the information will be assessed in the light of the criteria set out in these specifications. The procedure for the award of the contract, which will concern only admissible offers, 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 offer which has passed the exclusion and selection stages.

IV.1. Exclusion criteria (exclusion of tenderers)

IV.1.1. Exclusion criteria (Article 93 Financial Regulation¹)

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

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) they are currently subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation² for being guilty of misrepresentation in supplying the

¹ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248 of 16.9.2002)

information required by the contracting authority as a condition of participation in a contract procurement procedure or by the authorising officer as a condition of participation in a grant award procedure, for failing to supply this information or for having been declared to be in serious breach of their obligations under contracts or grants covered by the Community budget.

2. The cases referred to in point IV.1.1. e) above shall be the following:
 - a) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests established by the Council Act of 26 July 1995 (OJ/C 316 of 27.11.1995, p. 48);
 - b) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, established by the Council Act of 26 May 1997 (OJ/C 195 of 25.6.1997, p. 1);
 - c) cases of involvement in a criminal organisation, as defined in Article 2(1) of Joint Action 98/733/JHA of the Council (OJ/L 315 of 29.12.1998, p. 1);
 - d) cases of money laundering as defined in Article 1 of Council Directive 91/308/EEC (OJ/L 166 of 28.6.1991, p.77).

IV.1.2. Other cases of exclusion (Article 94 Financial Regulation)

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

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

Tenderers must declare:

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

The Commission reserves the right to check the above information.

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

² Council Regulation (EC, Euratom) n° 1605/2002 of 25 June 2002 on the Financial regulation applicable to the general budget of the European Communities, OJ L 248 of 16 September 2002, p. 1, amended by Council Regulation (EC, Euratom) n° 1995/2006 of 13 December 2006, OJ L 390 of 30 December 2006, p.1.

IV.1.3. Evidence to be provided by the tenderers

1. When submitting their offers, 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 shall complete and sign the form attached in Annex 4. Where the tenderer is a legal entity, they shall, whenever requested by the Commission, provide information on the ownership or on the management, control and power of representation of the legal entity.
2. The tenderer to whom the contract is to be awarded shall provide, within 15 calendar days after notification of the results of the procurement procedure and in any case before the signature of the contract, the following evidence, confirming the declaration referred to above:

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

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

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

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

Remark:

The tenderers will be waived of the obligation to submit the documentary evidence above mentioned if such evidence has already been submitted for the purposes of another procurement procedure launched by Directorate General for Energy and Transport and provided that the documents are not more than one year old starting from their issuing date and that they are still valid. In such a case, the tenderer shall declare on his honour that the documentary evidence has already been provided in a previous procurement procedure,

specifying the reference of the call for tender for which the documents have been provided, and confirm that no changes in his situation have occurred.

IV.1.4. Administrative and financial penalties

Without prejudice to the application of penalties laid down in the contract, candidates or tenderers and contractors who have been found guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or have failed to supply this information or have been declared to be in serious breach of their obligations under contracts covered by the Community budget may be subject to administrative or financial penalties, in accordance with Article 96 of the Financial Regulation and Articles 134b and 133a of the Implementing Rules.³

IV.2. SELECTION CRITERIA (SELECTION OF TENDERERS)

To be eligible, the tenderers shall have the economic and financial capacity as well as the technical and professional capacity to perform the tasks required in this call for tender.

IV.2.1. Economic and financial capacity – References required

Tenderers shall provide evidence of their economic and financial capacity by submitting an annual turnover of minimum 400000 EUR, for the past three years.

Tenderers shall provide proof of their financial and economic capacity by means of the following documents: the balance sheets or extracts from balance sheets for the last three financial years, and a statement of overall turnover and turnover relating to the relevant services for the last three financial years.

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

IV.2.2. Technical and professional capacity – References required

Tenderers should demonstrate their administrative, technical and professional capacities for the realisation of the envisaged project.

In particular offers should provide:

- 1: information on projects realised by the tenderer similar to the envisaged deposit boxes arrangement or about products manufactured during the last three years in the field of physical protection infrastructure such as bank safes or deposit arrangements for valuables.
- 2: experience of the staff working in the field of mechanical and electronical engineering.

³ Commission Regulation (EC, Euratom) n° 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, OJ L 357 of 31 December 2002, p. 1, last amended by Commission Regulation (EC, Euratom) n° 478/2007 of 23 April 2007, OJ L 111 of 28 April 2007, p.1.

- 3: information on the measures that the tenderers will take to guarantee the good execution of the tasks over the period of one years i.e. proof of the existence of an appropriate infrastructure for the manufacturing the installation.
- 4: information about the tenderers ISO quality assurance certification.
- 5: information about the rapid availability in the EUFO building in Luxemburg for service, or in case of urgency for maintenance or repair.
- 6: Part of the contract which the service provider intends to subcontract;

If several service providers/subcontractors are involved in the offer, each of them shall demonstrate the professional and technical capacity to perform the tasks assigned to them.

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

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

IV.3. EVALUATION OF TENDERS – AWARD CRITERIA

The contract will be awarded according to the criteria given below, on the basis of the economically most advantageous offer.

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

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

N°	Award Criteria	Weighting
1	<u>Understanding</u> : This criterion serves to assess whether the tenderers have fully understood all the aspects of the services required for the production of the deposit boxes arrangement for small size valuables as described under point I.2.	20
2	<u>Methodology</u> : The offers will be assessed according to whether the proposed design of the deposit boxes meets the requirements and objectives as laid down in this call for tender.	60
3	<u>Project Management</u> : This criterion relates to the rapid availability of the contractor for starting the work under the contract and to the availability for service, maintenance and repair following the installation of the arrangement.	20
Total number of points		100

b) Total price

The contract will be awarded to the tenderer who offers the best ratio quality/cost.

IV.4. INFORMATION FOR TENDERERS

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

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

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

V. ANNEXES

1. Identification of the Tenderer
2. Financial Identification
3. Legal Entity Form
4. Declaration by the Tenderer (relating to the exclusion criteria)
5. Draft Service Contract

ANNEX 1

IDENTIFICATION OF THE TENDERER

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

Call for tender TREN/I1/248-2008

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) ⁴	
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:	

⁴ For natural persons

Legal Representatives	
Names and function of legal representatives and of other representatives of the tenderer who are authorised to sign contracts with third parties	
Declaration by an authorised representative of the organisation⁵ I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	
Surname: First name:	Signature:

⁵ This person must be included in the list of legal representatives; otherwise the signature on the tender will be invalidated.

ANNEX 2

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

The tenderer's attention is drawn to the fact that this document is a model and that a specific form for each Member State is available at the following Internet address:

http://ec.europa.eu/budget/execution/ftiers_en.htm

FINANCIAL IDENTIFICATION

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

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

REMARKS :

<u>BANK STAMP + SIGNATURE of BANK REPRESENTATIVE</u> <u>(Both Obligatory)</u>
--

<u>DATE + SIGNATURE of ACCOUNT HOLDER :</u> <u>(Obligatory)</u>
--

ANNEX 3

Legal entity form

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

http://ec.europa.eu/budget/execution/legal_entities_en.htm

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

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

ANNEX 4

DECLARATION BY THE TENDERER

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

1. In accordance with Article 93 of the Financial Regulation of the European Communities (Council Regulation 1605/2002 of 25.6.2002) published in Official Journal L 248 of 16 September 2002, I declare on my honour that I am not in any of the following situations which would exclude me from participating in this procurement procedure:
 - a) I am not bankrupt, being wound up or having my affairs administered by the courts, I have not entered into an arrangement with creditors, I have not suspended business activities, I am not the subject of proceedings concerning any such matters, and I am not in any similar situation arising from a similar procedure provided for in legislation or regulations;
 - b) I have not been convicted of an offence concerning my professional conduct by a judgment which has the force of res judicata;
 - c) I have not been found guilty of grave professional misconduct proven by any means which the contracting authority can justify;
 - d) I have not failed to fulfil obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which I am established or with those of the country or the contracting authority or those of the country where the contract is to be performed;
 - e) I have not been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
 - f) I am currently not subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation⁶ for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a contract procurement procedure or by the authorising officer as a condition of participation in a grant award procedure, for failing to supply this information or for having been declared to be in serious breach of their obligations under contracts or grants covered by the Community budget.

2. In addition, the undersigned declares on his or her honour:
 - a) that on the date of submission of the tender, the company or organisation I do represent and the staff proposed for this tender are not subject to a conflict of interests in the context of this invitation to tender; I undertake to inform the Commission without delay of any change to this situation after the date of submission of the tender.
 - b) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.

Done at on.....
Name
Title
Signature:

⁶ 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.



EUROPEAN COMMISSION
Directorate General Energy and Transport
Directorate Nuclear Safeguards

SUPPLY CONTRACT

CONTRACT NUMBER – [complete]

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

of the one part,

,

and

[official name in full]

[official legal form]

[statutory registration number]

[official address in full]

[VAT registration number]

(hereinafter referred to as "the Contractor"), represented for the purposes of the signature of this contract by [name in full and function,]

of the other part

HAVE AGREED

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

Annex I - Technical Specifications [and monitoring]

Annex II – "Delivery Acceptance Form"

Annex III - Tender of the Contractor no. (Complete) of (Complete)

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

The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract. The terms set out in the General Conditions shall take precedence over those in the Annexes.

I – SPECIAL CONDITIONS

ARTICLE I.1 - SUBJECT

I.1.1. The subject of the Contract is the manufacture, delivery and installation of an arrangement consisting of 240 small size deposit lockers.

European Commission staff members need for accomplishment of their duties personal documents and equipment. Due to personal data protection reasons these items need to be safely locked and only accessible by the individual holder. Therefore, the Directorate General for Energy and Transport, in particular the service responsible for health protection would like to install inside the Commission office building, EUROFORUM, in the Cloche d'Or area in Gasperich, Luxembourg, an installation similar to a deposit boxes arrangement or letter distribution system installed in post offices or in bank buildings.

This arrangement should consist of 240 individual letterbox type small lockers. Each locker should be separately locked. In order to have access to all of these individual lockers at the time, there should be a possibility to open a group of lockers together in one action. Therefore, an even number of the small doors for the individual lockers shall be mounted in a larger door frame. It should be possible to open this door frame in order to give direct access to the small lockers behind. Since the installation will stand against the wall, this common opening must be done to the front of the installation.

I.1.2. The Contractor shall manufacture, supply and assemble the goods and shall provide the services related to them in accordance with the Technical Specifications annexed to the Contract (Annex I).

ARTICLE I.2 - DURATION

I.2.1. The Contract shall enter into force on the date on which it is signed by the last contracting party.

I.2.2. Performance of the Contract may under no circumstances begin before the date on which the Contract enters into force.

I.2.3. Delivery of goods and provision of related services to them shall be completed within **12 months** from date of entry into force of the Contract. Such period may be extended only with the express written agreement of the parties.

I.2.4. The Contract may be renewed twice for a period of 12 months for provision of related services only with the express written agreement of the parties before payment of the balance. Renewal does not imply any modification or deferment of existing obligations.

ARTICLE I.3 - AMOUNT

I.3.1 The maximum total amount to be paid by the Commission under this Contract shall be EUR [amount in figures and in words].

ARTICLE I.4 – PAYMENTS

Payments under the Contract shall be made in accordance with Article II.5.

I.4.1. Pre-financing:

Following the date on which the signed contract was received by the Commission, within 30 days of the receipt according to Article II.5 of the Contract, a pre-financing payment of EUR..... [amount in figures and in words] equal to 20% of the total amount referred to in Article I.3.1 shall be made by the Commission.

I.4.2 Payment of the balance

Invoices shall be issued and payments made in accordance with Article II.5.

The Commission shall have 20 days to approve or reject the goods by signature of the Delivery Acceptance Form (Annex II).

The request for payment of the balance shall be valid if accompanied by the relevant invoices, indicating the reference number of the Contract, provided the Delivery Acceptance Form (Annex II) has been duly signed by the Commission.

Within 30 days of the date of receipt by the Commission of the relevant invoice accompanied by the duly signed Delivery Acceptance Form (Annex II), payment of the balance corresponding to the relevant invoices shall be made.

I.4.3 The goods shall be delivered at:

European Commission
Directorate-General for Energy and Transport
Health Protection Sector
Euroforum Building
L-2920 Luxembourg

To the attention of: Mr. Klaus Schnuer

The Contractor shall notify the Commission of the exact date of delivery at least 10 days in advance. All deliveries shall be made between 09:00 hours and 16:30 hours at the agreed place of delivery.

I.4.4 Performance guarantee:

An amount corresponding to 10% of the total value of the Contract shall be withheld for up to 2 months from the date of payment of the balance in order to constitute a performance guarantee, release of which implies final acceptance of the goods delivered.

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: [complete]
Exact designation of the account holder: [complete]
Full account number including codes: [complete]
[IBAN code: [complete]]

ARTICLE I.6 – GENERAL ADMINISTRATIVE PROVISIONS

All communication relating to the Contract shall be made in writing and shall bear the Contract number. It shall be sent to the following addresses:

Commission:

European Commission
Directorate-General for Energy and Transport
Financial and Contractual Cell
Mr Alain Cluzeau – EUFO 4475
L-2920 Luxembourg

Contractor:

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

ARTICLE I.7– APPLICABLE LAW AND SETTLEMENT OF DISPUTES

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

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 Luxembourg.

[ARTICLE I.8 – OTHER SPECIAL CONDITIONS]

II – GENERAL CONDITIONS

ARTICLE II.1 - PROCEDURES FOR PERFORMING THE CONTRACT

II.1.1 Phases of execution of the Contract

Delivery

a) Time allowed for delivery

The time allowed for delivery shall be mentioned in Annex I.

b) Date and time of delivery

The Commission shall be notified in writing of the exact date of delivery within the period indicated in the Special Conditions. All deliveries shall be made at the agreed place of delivery during the hours indicated in the Special Conditions. The supplier shall bear all the risks concerning the goods until provisional acceptance at the place of delivery.

c) Consignment note

All consignments shall be accompanied by a consignment note in duplicate, duly signed and dated, giving the Contract number and particulars of the goods delivered. One copy of the consignment note shall be countersigned by the Commission and returned to the Contractor.

Acceptance of the goods after verification

Signing of the consignment note by the Commission, as provided for in subparagraph c) above, is simply an acknowledgement of the fact that the goods have been delivered and in no way implies acceptance.

Acceptance of the goods shall be confirmed by the signing of a certificate to this effect by the Commission contained in Annex II to this contract.

Acceptance shall take place no later than one month after the date of delivery, unless provision is made for a different period in the Special Conditions or in Annex I.

Acceptance shall be declared only where the conditions laid down in the Contract are satisfied and the goods conform to the Technical Specifications, which are an integral part of this Contract (Annex I).

Where a performance guarantee is required under Article I.4, the above-mentioned acceptance shall be considered provisional until release of the guarantee.

Non-acceptance of the goods after verification

Where, for reasons attributable to the Contractor, the Commission is unable to declare acceptance of the goods within thirty days of the date of delivery, the Contractor shall be notified in writing within a period of three Commission working days from the deadline for acceptance. The penalties provided for in Article II.4.1 may apply to the proportion of the total price corresponding to the goods which are unacceptable.

Assembly

If required by the Special Conditions, the Contractor shall assemble the goods delivered within a period of one month of being asked to do so by the Commission.

Training

If required by the Special Conditions, the Contractor shall provide a training at the premises of the Commission service where the goods will be installed according to the modalities determined in Annex I.

II.1.2 General provisions concerning goods

a) Packaging

The goods shall be packaged in a way that ensures that the contents remain intact and prevents damage or deterioration. Packaging, pallets, etc., including contents, shall not weigh more than 500 kg.

Pallets shall be considered as one-way packaging and shall not be returned. Each box shall be clearly labelled with the following information:

- Commission of the European Communities and address for delivery;
- name of Contractor;
- description of contents;
- date of delivery;
- number and date of Contract;
- EC code number of article.

b) Guarantee

The goods shall be guaranteed against all defects in manufacture or materials for one year from the date of acceptance, unless provision is made for a different period in the Special Conditions or in Annex I. The Contractor shall guarantee that any permits and licences required for manufacturing and selling the goods have been obtained.

The Contractor shall replace at his own expense, within a reasonable time-limit to be determined by agreement between the parties, any items which become damaged or defective in the course of normal use during the guarantee period.

II.1.3 Performance of the Contract

- a) 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.
- b) 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 goods are to be delivered.
- c) The Contractor must ensure that any staff performing the Contract has the professional qualifications and experience required for execution of the Contract.
- d) 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 Contract resulting from the replacement of staff in accordance with this Article.

- e) Should any unforeseen event, action or omission directly or indirectly hamper execution of the Contract, either partially or totally, the Contractor shall immediately and at 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. In such event the Contractor shall give priority to solving the problem rather than determining liability.
- f) 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 sanctions, as provided for in Article II.4.

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 misconduct or negligence on the part of the Commission.
- II.2.2.** The Contractor shall be liable for any loss or damage caused by himself in performance of the Contract, including in the event of subcontracting under Article II.10. The Commission shall not be liable for any act or default on the part of the Contractor in performance of the Contract.
- II.2.3.** The Contractor shall indemnify the Commission in full and undertakes to provide compensation in the event of any action, claim or proceeding brought against it 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 to this end may be borne by the Contractor if circumstances so justify.
- II.2.5.** In the event of any action brought by a third party against the Contractor in connection with performance of the Contract, the Commission may assist the Contractor if a written request is made by the Contractor to this effect. Expenditure incurred by the Commission to this end shall be borne by the Contractor.
- II.2.6.** The Contractor shall take out the insurance required by the relevant applicable legislation against risks and damage relating to performance of the Contract. He shall take out supplementary insurance if he deems it necessary and appropriate in order to perform the Contract. A copy of all 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 in order to prevent or end 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.

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

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

II.3.3. The Contractor declares:

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

ARTICLE II.4 - PENALTIES AND LIQUIDATED DAMAGES

II.4.1. Under the Financial Regulation applicable to the general budget of the European Communities, all contractors who have been found to have seriously failed to meet their contractual obligations are subject to financial penalties representing 2% to 10% of the total value of the contract in question. This rate may be increased to 4% to 20% in the event of a repeat offence within five years of the first infringement.

II.4.2 Should the Contractor fail to perform his obligations under the Contract within the time specified in Article I.2, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the Commission's right to terminate the Contract, the Commission may decide to impose liquidated damages of 0.2% of the amount of the Contract per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the Commission within thirty days of the receipt of such arguments, the decision imposing sanctions shall become enforceable.

ARTICLE II.5 – INVOICING AND PAYMENTS

a) Pre-financing:

The payment of the pre-financing foreseen in Article I.4.1 will be made within 30 days from registration of the invoice, drawn up in triplicate and bearing the Contract number.

b) Payment of the balance:

Within sixty days of receipt by the Contractor of the certificate of acceptance of the goods by the Commission, he shall submit the relevant invoice, drawn up in triplicate and bearing the Contract number, to the Commission for approval.

Where required in either the Special Conditions or Annex I, it shall be accompanied by a final technical report in accordance with the instructions laid down in Annex I and provided for in the Special Conditions.

On receipt of the documents the Commission shall have the period of time indicated in the Special Conditions in which:

- to approve them, with or without comments, reservations or requests for additional information; or
- to request new documents.

If the Commission does not react within this period, the documents shall be deemed to have been approved. Approval of the documents accompanying the request for payment does not imply recognition either of their regularity, or of the authenticity, completeness or correctness of the declarations or information enclosed.

Where the Commission requests new documents, these shall be submitted within the period of time indicated in the Special Conditions. The new documents shall likewise be subject to the above provisions.

ARTICLE II.6 – GENERAL PROVISIONS CONCERNING PAYMENTS

II.6.1 Payments shall be deemed to have been made on the date on which the Commission's account is debited.

II.6.2 The periods referred to in Article I.4 may be suspended by the Commission at any time if it informs the Contractor that his payment request is not admissible, either because the amount is not due or because the necessary documents have not been produced.

The Commission shall notify the Contractor accordingly by registered letter with acknowledgement of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter.

II.6.3 In the event of late payment the Contractor shall be entitled to interest, provided the calculated interest exceeds EUR 200. In case interest does not exceed EUR 200, the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations (“*the reference rate*”) plus seven percentage points (“*the margin*”). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time-limit for payment up to the day of payment. Suspension of payment by the Commission may not be deemed to constitute late payment.

II.6.4. The Financial Regulation applicable to the general budget of the European Communities imposes a final date for implementation of legal commitments towards third parties extending over more than one financial year by which all the phases of execution have to be completed and the payments made.

This final date shall be determined by adding to the date on which the goods and related services have to be delivered :

- the maximum periods laid down in article I.4,
- where applicable, the maximum period laid down for release of the performance guarantee.

In the event of amendment of the contract duration or of the periods indicated above, the final date for implementation shall automatically be modified accordingly.

ARTICLE II.7. –RECOVERY

II.7.1. If total payments made exceed the amount actually due under the Contract or if recovery is justified in accordance with the terms of the contract, the Contractor shall reimburse the appropriate amount in euro on receipt of the debit note, in the manner and within the time limits set by the Commission.

II.7.2. In the event of failure to pay by the deadline specified in the request for reimbursement, the sum due shall bear interest at the rate indicated in Article II.6.3. Such interest rate is published in the C series of the Official Journal of the European Union. 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.7.3. The Commission may, after informing the Contractor, recover amounts established as receivable by offsetting, in cases where the Contractor also has a claim on the Communities that is certain, of a fixed amount and due. The Commission may also claim against the guarantee. The agreement of the Contractor is not required.

II.7.4. The Contractor is aware that the Commission may formally establish an amount as being receivable from persons other than States by means of a decision which shall be enforceable within the meaning of Article 256 of the EC Treaty.

ARTICLE II.8. –TAXATION

II.8.1 The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoice invalid.

II.8.2 The Contractor recognises that the Commission is, as a rule, exempt from all taxes and dues, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities.

II.8.3 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 dues, including VAT.

II.8.4 Invoices presented by the Contractor shall specify separately his VAT taxation place, the amounts not including VAT and the amounts including VAT.

ARTICLE II.9.– FORCE MAJEURE AFFECTING THE CONTRACT

II.9.1 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.9.2 If either of the contracting parties is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgement of receipt or equivalent, stating the nature, likely duration and foreseeable effects.

II.9.3 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 for the goods actually delivered and related services provided.

II.9.4 The contracting parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II.10 – SUBCONTRACTING

II.10.1. 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.10.2. Even where the Commission authorises the Contractor to subcontract to third parties, he shall nonetheless remain bound by his obligations to the Commission under the Contract.

II.10.3. 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.13.

ARTICLE II.11 – ASSIGNMENT

II.11.1. 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.11.2. In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the Commission.

ARTICLE II.12 - TERMINATION

II.12.1. The Commission may terminate the Contract in the following circumstances:

- a) where a change in the Contractor's legal, financial, technical or organisational situation could have a significant effect on the Contract;
- b) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- c) where the Contractor has failed to perform the Contract;

- d) where the Contractor has been found guilty by the competent bodies of serious professional misconduct;
- e) where the Contractor is declared bankrupt, is wound up, has ceased trading, has been wound up by court order or is in composition with his creditors entailing suspension of business, is in receivership or is in any other comparable situation provided for by the laws or regulations of his country;
- f) where the Contractor has made false, incomplete or incorrect statements or has failed to provide information in an attempt to obtain the Contract or any benefit resulting therefrom, or where this was the effect of his action;
- g) where the Contractor has intentionally or by negligence, committed an irregularity in performance of the Contract or in relation to other contracts concluded with an institution, organ or agency of the European Communities and, more generally, in the event of fraud, corruption or any other illegal activity detrimental to the Communities' financial interests on the part of the Contractor.

II.12.2. In case of force majeure, notified in accordance with Article II.9, either contracting party may terminate the Contract.

II.12.3. Registered letter with acknowledgement of receipt or equivalent initiates the termination procedure. Where prior notice is not required (points b), d), e), f) and g)), termination shall take effect from the day after the day on which the letter terminating the Contract is received.

Where prior notice is required (points a) and c)), termination shall take effect after a period of three months, which shall start to run on the date on which the letter terminating the Contract is received. The Contractor may submit arguments against the termination within thirty days. In the absence of reaction on his part or of written withdrawal of the termination notice by the Commission within thirty days of the receipt of such arguments, the termination procedure is maintained.

II.12.4. Consequences of termination:

In the event of the Commission terminating the Contract in accordance with the provisions of this Article, 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 goods delivered and related services provided up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

The Contractor shall be entitled to remuneration in accordance with Annex I and accepted by the Commission. The Contractor shall accept as the aggregate liability of the Commission payment of the contract price corresponding to the goods delivered and to the related services provided in accordance with the Contract as at the effective date of termination. However, in the event of termination on the grounds set out in points (b), (c), (d), (f) or (g) of Article II.12.1, the Commission may recover any sums paid to the Contractor under the Contract.

ARTICLE II.13 – CHECKS AND AUDITS

- II.13.1.** The Contractor shall provide free of charge all the detailed information requested by the Commission or by an outside body of the Commission's choice with a view to checking that the Contract is being properly managed and performed.
- II.13.2.** The Contractor shall keep at the Commission's disposal the original or, in exceptional cases, duly authenticated copies, of all documents relating to the Contract for a period of five years from payment of the last delivery.
- II.13.3.** The Commission may, at any time within the period specified in the paragraph above, arrange for an audit to be carried out either by an outside body of its choice, or by the Commission departments themselves. The object of such an audit shall be limited to checking that the Contractor has complied with the Contract. The cost shall be borne by the Commission.
- II.13.4.** In order to carry out these audits, the Commission departments and the outside bodies concerned shall have total on-the-spot access, notably to the Contractor's offices, at all times and to all the information needed to check that the Contractor has complied with the Contract, including information in electronic format.
- II.13.5.** The European Court of Auditors and the European Anti-Fraud Office shall have the same rights as the Commission, notably right of access, for the purpose of checks and audits.

ARTICLE II.14 - AMENDMENTS

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

SIGNATURES

For the Contractor,

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

signature[s]: _____

Done at, date

For the Commission,

Stamatios Tsalas, Acting Director

signature[s]: _____

Done at **Luxembourg**, [**date**]

In duplicate in English

ANNEX I

Technical Specifications

The purpose of this Annex is to enable the Commission to conduct, throughout the duration of the Contract, an accurate appraisal of whether the Contract is performed in accordance with the provisions therein.

- (a) The Technical Specifications comprise the tender submitted by the Contractor and accepted by the Commission on the basis of invitation to tender **No [complete]**.