

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

**Invitation to tender N° TREN /I1/81-2009  
concerning the supply contract for FORK detectors**

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## I. SPECIFICATIONS

### I.1. Introduction

The Nuclear Safeguards Directorate (DG TREN-I) of the European Commission has a need for measurement systems to be used in nuclear installations across all Member States for physical verification of spent fuel elements, stored underwater. There is a growing need for measurement after EU enlargement and as more fuel is transported to either reprocessing plants or to interim storage. These measurements are performed under water, in spent fuel ponds, to confirm the declared fuel compositions.

### I.2. Purpose of the contract

In order to cover the need for inspection activities new FORK detectors must be purchased. The FORK detectors are used to measure neutron and gross gamma-ray emission from irradiated nuclear fuel assemblies, stored under water. The FORK detectors shall be adapted to verify different types of spent fuel elements, mainly for **B**oiling **W**ater **R**eactor (BWR) type of fuel assemblies but also for **P**ressurized **W**ater **R**eactor (PWR) fuel type of fuel elements.

Nr.	Description	Quantity
1	Fork detectors used for PWR size fuel elements	2
2	Fork detectors used for BWR size fuel elements	3

**Table 1.** Detectors quantity

#### *Note 1:*

*Please note that following the evaluation of the offers and depending on the availability of the budget, the Commission may decide to purchase less units than those indicated in Table 1 or buy additional units but up to a maximum of 3 detector type PWR and 4 detectors of type BWR.*

For compatibility reasons with existing DG TREN equipment, a number of parameters/specifications are fixed and mandatory (see Figure 1 and Table 2). The successful tenderer will be required to supply the above instruments ( see Table 1) conforming to the following technical specifications:

#### **I.2. 1 Detector head**

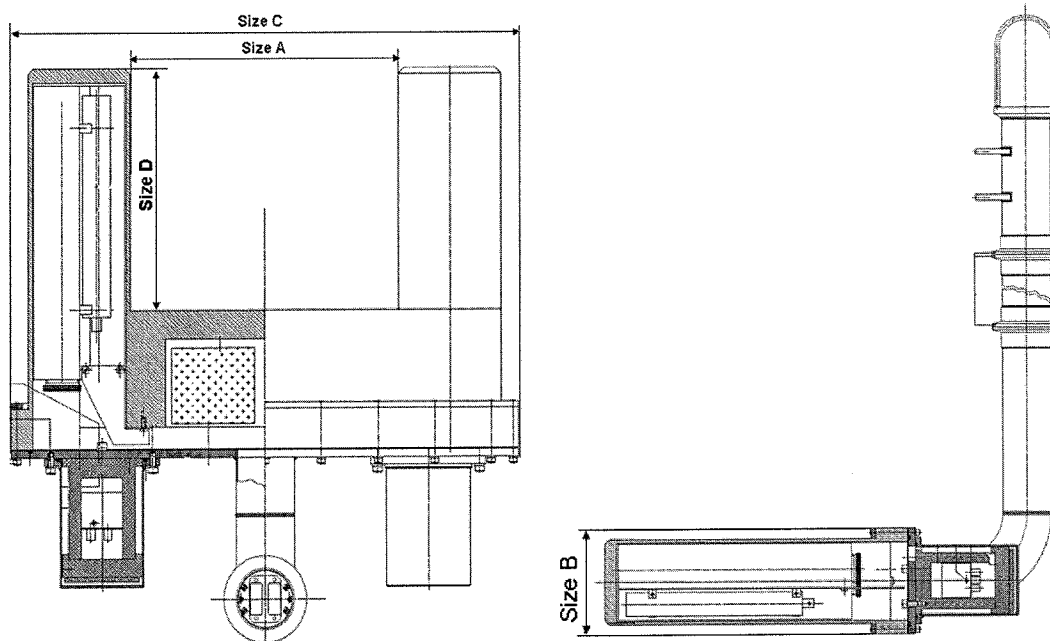
##### a) Dimensions

The major difference between the two types is the size of the detector head. The "cavity" between the arms should have dimensions as to accommodate for the different types of spent fuel elements (PWR and BWR). Some critical dimensions are given in Figure 1 and Table 2 hereunder.

	Parameter	Text	BWR	PWR
	1	Total efficiency of detector for measurement of neutrons from $Cf^{252}$ in air	Shall be 0.15% or better	Shall be 0.1% or better
	2	Size A	168 mm (-0, + 5 mm)	243 mm (-0, + 5 mm)

3	Size B	maximum 115 mm	maximum 115 mm
4	Size C	maximum 400 mm	maximum 500 mm
5	Size D	178 mm (-0, +10 mm)	210 mm (-0, +10 mm)

**Table 2:** Fork detector parameters (BWR and PWR type)



**Figure. 1** Detector head (top view at left, side view at right) with preamplifiers and pipework

b) Detector housing

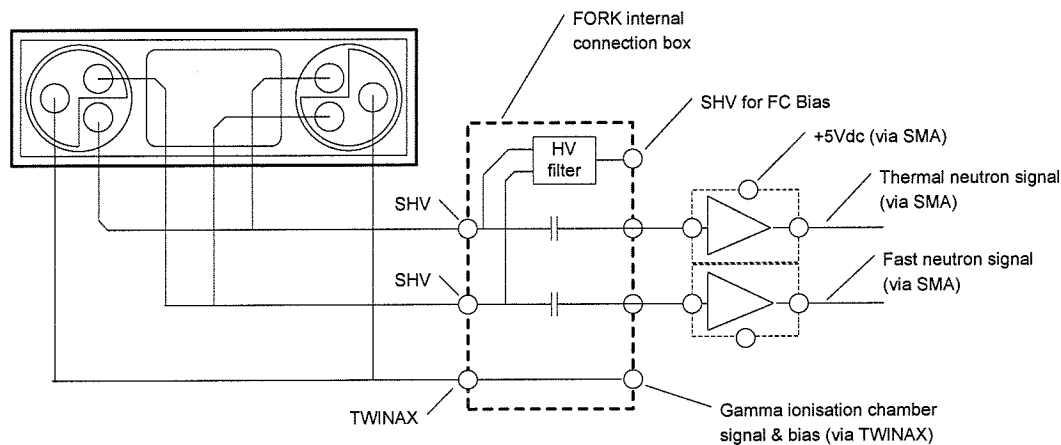
The detector head has to be a watertight housing with ionization chambers (gross gamma measurement) and fission chambers (thermal and fast neutrons) - placed in the horizontal arms of a "fork-like" structure.

c) Construction of the detector

The detector outer body should be constructed in polyethylene, with a stainless steel backplate and contain two pulse fission chambers and one ionization chamber (current operated) in each tine. The fission and ionisation chambers are mounted in a cadmium clad polyethylene cylinder (1 quarter removed, where one set of pulse fission chambers is mounted – measuring the thermal neutrons).

d) Interconnections of counters

The mounting and interconnection of counters (from both tines) should be such that three signals are available: thermal neutron signal, fast neutron signal (both as TTL pulses), and a gamma ionisation current signal. See block diagram hereunder ( see Figure 2).



**Figure 2:** Connections of counters/preamplifiers in Fork detector

e) Ionisation chamber

For technical reasons (similar Fork detector response and electrical/dimensional compatibility to Fork detectors DG TREN is already owning), **the ionisation chambers** should be *LND* model 52110 (filled with Xenon gas at 10 bar, 16 mm diameter, 86 mm active length, seven decade gamma ionisation chamber). The ionisation chambers are to be mounted (with radiation resistant isolation rings) in a brass holder, with external diameter of 25.4 mm. A BNC-Twinax connector is to be used for the connections of anode, cathode and guard ring.

f) Fission chamber

For the same technical reasons, **the fission chambers** are to be *CENTRONIC* model *FC167* (approx 160 mg of  $^{235}\text{U}$  coating, filled with Argon + Nitrogen gas at 4.5 bar, overall 25.4 mm diameter, active length 127 mm). A miniature high voltage connector (type PET 100 coaxial connector) is to be used for the bias voltage/signal of the fission counters.

g) Active volume

The active volume of the neutron and gamma counters should be well aligned to the respective active zone of the irradiated fuel-under-test.

h) Components and materials

The Fork detector components and materials have to resist to the intense gamma and neutron radiation, emitted by spent nuclear fuel elements, to be verified after a few years of cooling under water. The exposure dose rate for gamma radiation can be up to  $10^5$  R/h. Further the external surfaces have to be of high quality materials, in order not to degrade under contact with (sometimes corrosive) reactor pond water. The smooth detector surfaces should allow easy decontamination activities (after deployment of a Fork detector). The offer has to state how the above requirements are achieved.

i) Detector cables

A watertight cable bulkhead has to be mounted on the blind flange (at the elbow pipe on the backplane of the head). A multicoax cable (7 x RG174/U coax under a metal braid and polyurethane jacket,  $\pm 50\text{cm}$  spliced at the inside of the detector head and terminated with SMA, SHV and TWINAX connectors) is clamped in the above cable bulkhead. Variations of the connectors are not acceptable due to compatibility requirements – the connectors need to fit to the existing measurement electronics and cables between existing and new fork detectors need to be interchangeable. Outside the head, there is 12 m of multicoax cable through the stainless steel pipes (see paragraph I.2.5) to the junction box on the pipe top section.

### I.2.2 Preamplifiers

As short-as-possible coaxial connections from the fission counters to the charge sensitive preamplifiers have to be used (via a bias voltage circuit, with high voltage filter). In the existing DG TREN Fork detectors, the two preamplifiers (one for the "bare" fission chambers, detecting thermal neutrons and one for the "Cd clad" fission chamber, detecting fast neutrons) are based on the Amptek A111A, on a miniature printed circuit board, in a metal housing  $\pm 36$ mm diameter, 50mm long). This housing is located in a thick lead shielding – itself mounted under watertight stainless-steel cans, attached to the rear plate. Three SMA connectors are used for: signal input, signal output and  $+5V_{dc}$  supply (see Table 3).

For maintenance purposes, it must be possible to access the preamplifiers without the need to disassemble completely the Fork detector head. For this, the mounting flange of the stainless steel cans (holding the lead shield and preamplifiers) should be bolted (with blind holes) to the backplate of the Fork detector head (using O-rings for water tightness). The tenderer should describe his chosen solution for this activity.

The preamplifier gain or the equivalent neutron discrimination level (DI) should be adjusted such that gamma pileup does not interfere with the neutron counts.

The counting electronics unit supplies  $+12V_{dc}$  for the preamplifiers (regulated down to a suitable voltage by a linear voltage regulator).

Alternative preamplifiers may be proposed, but their use may not increase the dimensions of the Fork detector nor require other than  $+12V_{dc}$  supply voltage.

Connector type	Description
SHV	Fission chamber bias voltage
SMA to AMPTEK preamplifiers 1 and 2	FC signal input, TTL output signal
SMA (+5V)	$+5V_{dc}$ power supply
TWINAX P1, P2	Picoampère Current (from paired ionisation chambers )

**Table 3.** Description of connectors used in internal connection box in the Fork detector head.

### ***1.2.3 Top Junction Box***

The top junction box (TJB) will serve several purposes. It contains a linear voltage regulator to reduce the  $+12V_{dc}$  output from the counting electronics unit (already owned by DG TREN) to  $+5V_{dc}$  (as is needed in case of Amptek preamplifiers).

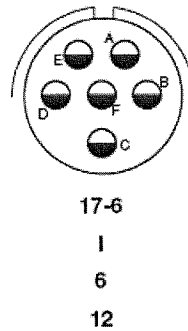
Furhter, it is required that a voltage monitor circuit is present; a first LED (green) indicates the arrival of  $+12 V_{dc}$ . The range of input ( $+12V_{dc}$ ) and output voltage ( $+5V_{dc}$  in case of Amptek preamplifiers) must be monitored. A bi-colour LED will be used for visual indication of the status of voltages (green LED means voltages within 0.5V of mean value, red LED means one or both voltages out of range).

As a visual aid during the use of the detector, two high-intensity red LED's must be provided to blink shortly each time a neutron "event" is detected by the fission chambers (thermal and fast neutrons).

On the TJB, two wall mount receptacles are to be foreseen for the multicoaxial cables. As for the mentioned compatibility reasons, the connectors have to be MIL-C-38999 series 3 (Tri-Start coupling), insert arrangement 17-6, with crimp type coaxial contacts (size 12). See Figure 4 hereunder.

A 12 m long multicoax cable (see paragraph I.2.2) is fixed to the detector head (see I.2.1.) and the other end is connected to the MIL-C-38999 wall mount receptacle on the TJB. This cable is to be

located inside the stainless steel pipes (see paragraph I.2. 5) in order to prevent any contact with pond water, which may contain radioactive isotopes.



**Figure 4.** *Insert configuration, using 6 coaxial insert connectors (size 12)*

#### ***1.2.4 Multicoax cable***

For each fork detector a multicoax cable is required for connection from TJB (see I.2.3) to the counting electronics. Both sides of this 10 m long cable (containing 7 x RG174/U coax cable under a metal braid and polyurethane jacket) have to be foreseen with a MIL-C-38999 series 3 straight cable plug with coaxial crimp inserts (size 12).

#### ***1.2.5 Pipework + support platform***

The Fork detector head is suspended under water by a selectable number of 53 mm  $\varnothing_{\text{external}}$ /50 mm  $\varnothing_{\text{internal}}$  polished stainless steel pipes with DN50 flanges and annular supported O-rings, joined together by quick-release chain clamps. Provisions have to be made that no hand tools are required to tighten the pipe clamps. A standard set of pipes is to be supplied for each detector. A set consists of five times two meter length plus a single one meter length pipe. The maximum length of piping is thus eleven meters.

For each unit, a mounting platform needs to be supplied. The platform clamped to the railing around the spent fuel pond, is required to hold the assembled Fork detector plus pipework in a safe and stable position. It must be possible to adjust the vertical position of the assembled detector in order to have the Fork detector at the required depth under water (for example by the use of a collar clamped around the pipes, with a reliable thumb screw tightening).

In order to avoid accidental loss of Fork detector parts in the spent fuel pond (when a failure of pipe clamps might occur), **a safety cable must be provided.** This 15 m long, 3 mm diameter stainless steel cable (with carabiner fixing to the flange of the Fork detector head), will run through the pipework and can be fixed to a remote support structure.

By manipulating the accessible pipes, it is intended to place the Fork detector around an irradiated fuel element in such a way as to measure the neutron and gamma emission from a selected region of the fuel element- in order to confirm its declared burn up and cooling time.

#### ***1.2.6 Other mandatory requirements***

- a) For each FORK head shall be provided:
  - 20 disposable rubber protections which will be used to avoid radioactive contamination of the FORK detector surfaces by the irradiated fuel elements);

- b) A single set of spare parts for all delivery has to be included:
- 2 tuned preamplifiers;
  - a set of O-rings with annular support ring (10 for DN50 flanges, 4 for backplate sealing = 2 x PWR model + 2 x BWR model, 4 for stainless steel preamplifier cover);
  - 10 quick-release chain clamps;
  - 4 spare ionisation chambers;
  - 7 spare MIL-C-38999 wall mount receptacle;
  - 7 spare MIL-C-38999 series 3 straight cable plug.

### ***1.2.7 Test and documentation requirements***

- A user manual shall be provided for the Fork detectors. This should include the characteristics of each FORK detector unit and the components used. The manual shall include the information about the maintenance requirements of the detector.
- Each Fork detector should be accompanied by an individual test certificate including the following:

Functional testing and internal settings:

- a) The high voltage plateau must be demonstrated and the procedure employed for setting the threshold discriminator and/or amplifier gain provided. A functional test of the ionisation chambers with a calibrated gamma ray source (e.g.  $^{137}\text{Cs}$ ) shall be performed and documented.

- b) Efficiency testing:

The efficiency test with a calibrated  $^{252}\text{Cf}$  source placed centrally between the Fork detector arms should be recorded.

### ***1.2.8 Warranty***

A full 2 year warranty including all parts, labour and maintenance is to be included.

### ***1.3. Duration of the tasks***

The delivery shall be not later than 24 months after entry into force of the contract. This period will be calculated in calendar days.

### ***1.4. Place of performance and delivery***

The tasks will be performed on the Contractor's premises. However, meetings between the contractor and the Commission may be held on Commission premises in Luxembourg. A maximum of two travels is to be taken into account in the financial offer.

The tenderer will deliver the goods to Belgium to the following address:

To the attention of: SCK-Cen  
Mr Michel Bruggeman  
Boeretang 200 -2400 Mol

### ***1.5. Estimate of the amount of work involved***

2 detectors for PWR and 3 detectors for BWR will be delivered. The amount of work could be changed subject to the application of Note 1 above. The detectors shall contain the above indicated components.



## **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 supply contract

### **II.2. Financial guarantees**

#### **Guarantee on pre-financing**

For any pre-financing higher than 100,000 EUR, a financial guarantee equivalent to the amount of the pre-financing will be requested.

Depending on the financial situation of the tenderer, the Commission may ask for the financial guarantee for amounts lower than 100,000 EUR.

### **II.3. Subcontracting**

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

### **II.4. Legal form to be taken by the grouping of supply 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 of the person heading the project, who will be, vis à vis the Commission, the only contracting party responsible for the performance of this contract. Tenders from a consortium of firms or groups of supply 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 (all of them) and award criteria.

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

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

Tenders must be written in one of the official languages of the European Union.

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

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

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

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

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

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

*Each tenderer (including subcontractor(s) or any member of a consortium or grouping) must complete and sign the identification forms in Annex 1 and also provide above-mentioned documents. However, the subcontractor(s) shall not be required to fill in or provide those documents when the supplies 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](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](http://ec.europa.eu/budget/execution/legal_entities_en.htm)

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

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

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

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

The technical proposal must provide all the information needed for the purpose of awarding the contract.

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

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

- The quotation will be required to show:
  - o a price per Fork detector including spare parts , plus an indication of any discount granted
  - o spare parts in paragraph I.2.6b.
- 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 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;

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

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

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

All the information will be assessed in the light of the criteria set out in these specifications. The procedure for the award of the contract, which will concern only admissible bids, will be carried out in three successive stages.

The aim of each of these stages is:

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

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

##### ***IV.1.1. - Exclusion criteria (Article 93 Financial Regulation<sup>1</sup>)***

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

- (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 Regulation<sup>2</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 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);

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<sup>1</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>2</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.

- 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 contract 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.

#### ***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 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.<sup>3</sup>

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

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

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

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

This rule applies to all supply 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***

Tenderer should submit proof to show that:

- they have experience in the area of nuclear measurement techniques and engineering , as evidence of this, they should submit a list of activities for the previous 2 years;
- they employ personnel with more than 3 years professional experience in nuclear measurement techniques and 3 years professional experience in electronic and mechanical engineering;
- The technical staff to be involved in the construction, installation and maintenance of the FORK detectors has good knowledge of one of the following languages: English, French or German ;
- they have sufficient staff to meet the delivery times laid out in paragraph I.3.

For all the points mentioned above supporting documentation will have to be provided.

#### **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 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.

The contract will be awarded to the tender who offers the best ratio quality/price where quality is the sum of the number of points awarded.

<b>N°</b>	<b>Award Criteria</b>	<b>Weighting</b>
1	Efficiency of the detector (see I.2.1) – table 2 parameter 1	40

<sup>3</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, last amended by Commission Regulation (EC, Euratom) n° 478/2007 of 23 April 2007, OJ L 111 of 28 April 2007, p.1.

2	Certification and Technical documentation (see I.2.7)	40
3	Quality and detail of the submitted tender	20
<b>Total</b>		100

#### **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.

If a written request is received, the Commission will inform all rejected tenderers of the reasons for their rejection and all tenderers submitting 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 Supply Contract



# ANNEX 1

## IDENTIFICATION OF THE TENDERER

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

### Call for tender TREN I1/81-2009

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>4</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:	

<sup>4</sup> For natural persons

<b>Legal Representatives</b>	
<b>Names and function of legal representatives</b> and of other representatives of the tenderer who are authorised to sign contracts with third parties	
<b>Declaration by an authorised representative of the organisation<sup>5</sup></b>  I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	
Surname: First name:	Signature:

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<sup>5</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)

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](http://ec.europa.eu/budget/execution/ftiers_en.htm)

# FINANCIAL IDENTIFICATION

<b>ACCOUNT HOLDER</b>	
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"/>

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

**REMARKS :**

**BANK STAMP + SIGNATURE of BANK REPRESENTATIVE**

(Both Obligatory)

--

**DATE + SIGNATURE of ACCOUNT HOLDER :**

(Obligatory)

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## **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 supply 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 judgement by a judgment which has the force of res judicata;
  - c) I have not been found guilty of grave professional misconduct proven by any means which the contracting authority can justify;
  - d) I have not failed to fulfil obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which I am established or with those of the country or the contracting authority or those of the country where the contract is to be performed;
  - e) I have not been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
  - f) I am currently not subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation<sup>6</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 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.

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<sup>6</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.

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



EUROPEAN COMMISSION  
Directorate General Energy and Transport  
  
Directorate  
Unit

## 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 Stamatios 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

**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 to purchase new Fork detectors

**I.1.2.** The Contractor shall supply and assemble the goods and shall provide the services related to them in accordance with the Technical Specifications with price list annexed to the Contract (See Point I.2 "Purpose of the contract" and §I.2.1 → §I.2.8 of the Technical Specifications)

### **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 not take place after [*date not exceeding 24 months*] and shall start from date of entry into force of the Contract. Such period may be extended only with the express written agreement of the parties before such period elapses.

### **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 Payments**

- A first payment of 30% of the amount referred to in Article I.3.1 equal to XXXXX€ - when all mechanical components have been produced as witnessed by the European Commission (see annex II), within 30 days of delivery of the corresponding certificate (annex II) and on receipt of a payment request. [*following the receipt of a duly constituted financial guarantee equal to at least XXXX Euro (amount in figures and in words)*]
- A final payment of the balance: XXXX € following calibration and tests executed in presence of the European Commission and delivery of test certificate (see annex II), on receipt of the final invoice.

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 counter-signing the 2 certificates (Certificate 1 for the production of mechanical components and Certificate 2 for functional tests), see model in s(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 of certificates (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.

*[For Contractors established in Belgium, the provisions of the Contract constitute request for VAT exemption no 450, provided that the Contractor indicates in his invoice(s) as follows: "Exonération de la TVA, article 42, paragraphe 3.3 du code de la TVA." or equivalent indication in Dutch or German language.]*

**I.4.2** The goods shall be delivered in MOL at :

SCK-Cen

To the attention of: Mr Michel Bruggeman

Boeretang 200

B-2400 Mol

The Contractor shall notify the Commission of the exact date of delivery at least 15 days in advance. All deliveries shall be made between 9:00 hours and 16:00 hours at the agreed place of delivery.

## **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

Directorate I- Nuclear Safeguards

Unit I1- Logistical support

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 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 strong boxes or crates or in any other 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 have 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.

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 an authorised bank or financial institution (guarantor) equal to the amount indicated in the same Article to cover pre-financing under the Contract.

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 delivery of goods or execution of related services 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 on the date on which the Contractor receives the pre-financing. The Commission shall release the guarantor from its obligations as soon as the Contractor has demonstrated that any pre-financing has been covered by equivalent delivery of goods or execution of related services. The guarantee shall be retained until the pre-financing has been deducted from payment of the balance. It shall be discharged the following month. The cost of providing such guarantee shall be borne by the Contractor.

### 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.** Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the European Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the European Communities from signature of the Contract up to five years after payment of the balance.
- II.13.2** 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.13.3.** 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.13.4.** 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.13.5.** 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.13.6** 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
- II.13.7.** 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*]

For the Commission,

[*forename/surname/function*]

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

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

Done at ....., date

Done at Luxembourg, date

In duplicate in English

## **ANNEX I**

**Technical Specifications N° TREN/I1/81-2009**

## ANNEX II

### Templates for certificates



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR ENERGY AND TRANSPORT  
DIRECTORATE

Luxembourg,

#### **Certificate 1 for the production of mechanical components**

We undersigned<sup>7</sup>, .....

.....

Declare that all mechanical components, produced in conformity with the EC technical specification contract number: ..... have been checked and found to be complete and comply.

	For the Contractor	For European Commission (technical responsible)
Date		
Signature		

Copies (to be sent by the technical responsible):

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<sup>7</sup> please insert name, institution and function





**EUROPEAN COMMISSION**  
 DIRECTORATE-GENERAL FOR ENERGY AND TRANSPORT  
 DIRECTORATE

Luxembourg,

**Certificate 2 for functional tests**

We undersigned<sup>8</sup>, .....

.....

Declare that all Fork detectors have been tested and found to be fully operational, in conformity with the EC technical specification contract number:

.....

	For the Contractor	For European Commission (technical responsible)
Date		
Signature		

Copies (to be sent by the technical responsible):

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<sup>8</sup> please insert name, institution and function

## **ANNEX III**

**Contractor's Tender N°:**