



EUROPEAN COMMISSION  
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

## **CALL FOR TENDERS**

**No 739/PP/GRO/IMA/19/1131/10974**

### **TITLE**

**STUDY ON TERRITORIAL SUPPLY CONSTRAINTS IN  
THE EU RETAIL SECTOR**

**Open procedure**

**TENDER SPECIFICATIONS**

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## **1. TECHNICAL SPECIFICATIONS**

### **1.1. INTRODUCTION**

In the Communication of 19 April 2018 for a European retail sector fit for the 21<sup>st</sup> Century (COM/2018/219 final) (Retail Communication), the Commission noted its awareness of so-called ‘territorial supply constraints’ (TSCs).

TSCs are constraints set by private operators which may limit retailers' possibilities to purchase products from whom and from where they want. It appears that in some cases, retailers based in one Member State and dealing with a multi-national supplier (manufacturer or wholesaler) are not given the choice to decide from which national entity of the supplier the goods should preferably be sourced and are instead referred to a specific national subsidiary. Those limitations seem to take various forms. The supplier may also prevent its network of independent wholesalers from delivering its products cross-border.

If the supplier imposing TSCs is in a dominant position or if they are applied as part of an agreement between the supplier and an independent wholesaler, competition law can under certain circumstances be used to sanction these constraints as anti-competitive behaviour. It does not, however, catch situations when such instructions are given by vertically integrated suppliers to their national subsidiaries.

TSCs are presumed to have a role in market segmentation, limiting competition and bringing discrepancies between wholesale and consumer prices or the choice of products offered to consumers across the EU. There might however be sound reasons for suppliers to differentiate their offer in different countries, or even regions, and to have a control over products' distribution.

#### **Scope of the study**

The study will look into the gap left by the competition rules, which because of their overall structure (prohibition of abusive unilateral behaviour and anti-competitive agreements) do not catch instructions given by non-dominant, vertically integrated manufacturers to their national subsidiaries and/or to wholesalers through which they distribute their products. It will build on the initial analysis contained in the Staff Working Document accompanying the Retail Communication and the evidence collected by the Commission (including the Retail Operations study).

### **1.2. DESCRIPTION OF TASKS**

#### ***1.2.1. Objectives and tasks***

The purpose of this study is to form part of the fact-finding, announced in the Retail Communication, on the prevalence, reasons for and effects of such practices on the Single Market. The purpose of this study is to provide data and information on the scale and nature of territorial supply constraints. Results will indicate categories of products in the supply chains of which TSCs are most prevalent, the extent to which they are present in those categories, the types of TSCs that are used most often as well as the geographical scope of the practices. The study also aims at explaining the possible reasons for suppliers to limit the way their products are distributed.

An important element of the study will concern measuring the effects of TSCs, i.e. their impact on the Single Market, in particular on consumers and on businesses (along the supply chains, including manufacturers, wholesalers and retailers). This aspect could take into account the parallel trade opportunities currently exploited and their potential. It could also be approached from a counterfactual perspective, through assessing possible effects on the market of a situation where TSCs would not be present - in quantitative and qualitative terms.

The study will also take into account the consumer perspective. The aspect of consumer preferences, expectations, purchasing decisions and their behaviour will need to complement the picture.

Results of the study will guide whether further action may be needed and if yes, what this action should be.

The study will comprise five tasks:

Task 1: Mapping of the TSCs

Task 2: Identifying reasons for TSCs

Task 3: Assessing the economic impact of TSCs

Task 4: Assessing the role of digitalisation and multichannel retail

Task 5: Presentation of study results to Commission stakeholders

The maximum amount of the contract is 310 000 EUR.

The tender must comply with applicable environmental, social and labour law obligations established by Union law, national legislation, collective agreements or the international environmental, social and labour conventions listed in Annex X to the Directive 2014/24/EU.

### ***1.2.2. Task 1: Mapping of the prevalence and nature of TSCs***

The purpose of this task will be to present and explain in what way and to what extent suppliers (manufacturers and, where relevant, wholesalers) use TSCs within the Single Market. Outcomes of this task will allow understanding the prevalence, the types and the nature of TSCs.

In order to leverage complementarity of information gathered through the two work streams (this study and the Commission work on dual quality food), it should be coordinated to the extent possible with the Commission work on dual quality food, in particular with the testing campaign aimed at carrying out laboratory tests on different attributes of food products of the same brands<sup>1</sup>,

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<sup>1</sup> [https://ec.europa.eu/knowledge4policy/publication/eu-harmonised-methodology-testing-food-products\\_en](https://ec.europa.eu/knowledge4policy/publication/eu-harmonised-methodology-testing-food-products_en)

and the behavioural tests studying consumer purchasing behaviour in this context. Both pieces of research have been launched by the Commission Joint Research Centre (JRC). As this is work in progress and its results would most probably not yet be publicly available, the Commission will, to the extent possible, share its draft results with the selected contractor for the present study.

The product categories as well as the Member States falling under the scope of this study should be aligned with the product categories and the Member States that will be covered by the JRC tests, if this supports the overall objective of the task and to the extent that this does not result in the exclusion of categories where there are indications that TSCs play an important role. This will allow looking at the issues from different perspectives in comparable set-ups.

Apart from certain food products, which are the focus of the JRC research, this study will look into TSCs occurring in certain non-food product categories.

As a minimum, the study should cover 6 of the following product categories, made up of 4 food and 2 non-food categories. In addition, where relevant, it should aim to cover at least 2 subcategories within each category.

- Soft drinks, e.g. carbonated soft drinks, cola carbonates and non-cola carbonates, bottled water
- Dairy, e.g. yoghurts, soft cheese, milk
- Coffee, e.g. fresh ground coffee, instant coffee
- Tea, e.g. black tea, green tea, herbal and fruit infusions
- Confectionary, e.g. chocolate bars, chocolate tablets
- Breakfast cereals
- Spreads, e.g. chocolate spreads, jams
- Condiments and sauces, e.g. ketchup, mayonnaise, tomatoe sauce
- Rice and pasta
- Canned / prepared / frozen food
- Personal care products, e.g. shampoos, soaps, toothpaste and shower gels
- Household care products, e.g. washing detergents, washing-up liquids, cleaning products

The choice of product categories should refer to the importance of those categories in the consumer spending, the importance of multinational suppliers in those categories and the preliminary awareness of existence of TSCs in those categories. The tender should propose criteria to prioritise the categories to be covered.

The final choice of criteria and of actual categories should be approved by the Commission in the initial phase of the study, between the kick-off meeting and the interim report.

The study should cover minimum 10 Member States (excluding the UK). Its geographical coverage should be representative for the EU (in terms of the geographical spread, the size of the country, etc.). It should also be coherent with the geographical coverage of the JRC behavioural tests of consumer purchasing decisions, which is planned to cover 6 Member States, if this supports the overall objective of the task and without excluding Member States where there are indications that TSCs play an important role. The tender should propose criteria to choose the Member States. The final choice of criteria and of actual Member States should be approved by the Commission.

In particular, the study will reply to the following research questions:

- 1) What are the symptoms/signals of TSCs? What types of TSCs exist? Bans, supply quotas, differentiation of products (in terms of content or packaging, including languages used and country-specific packaging, etc.), dual pricing, etc. What types of TSCs are used within different distribution channels / along value chains? This assessment should result in developing of a clear definition of TSCs. Which types are most prevalent in each product category, in each Member State covered?
- 2) Within the product categories and Member States covered: in the cases where products developed for certain national markets are generally not available for purchase in other national markets, to what extent is this driven by a) TSCs applied by the manufacturers b) marketing decisions by the retailers c) other factors.

Are there criteria that emerge as necessary to be met in order for a product to be attractive and accessible for cross-border purchases and distribution by retailers?

To what extent are TSCs present in the product categories covered by the study, e.g. through the share of products and their weight in sales within the categories (or another robust measure)? On the basis of the product categories covered, what could be an estimated presence of TSCs in all fast moving consumer goods (FMCG) available in grocery shops in the Member States covered?

- 3) What types of retailers (grocery retailers, specialised retailers, big retailer chains, small retailers, etc.) are subject to TSCs? What share of retailers are subject to TSCs? What is their share of the market in Member States they are present in?
- 4) To what extent are wholesalers subject to TSCs? To what extent do wholesalers use TSCs towards retailers?

This task should be based on information gathered from different sources:

- literature, including academic papers, reports, position papers, etc.
- data on retail turnover and other indicators (shares of retailers, shares of manufacturers, shares of brands within categories, prices, etc.), for specific product categories, for all or selected Member States
- surveys or interviews with relevant stakeholders, including manufacturers, retailers, wholesalers (including most important players in each of the sectors)
- other relevant sources

### ***1.2.3. Task 2: The reasons for using TSCs***

The purpose of this task will be to present and explain the reasons provided by suppliers (manufacturers and, where relevant, wholesalers) for their use of TSCs, e.g. differentiation of the offer, and the control they exercise over the distribution of their products. It will look into possible justifications/assessment for TSCs stemming from manufacturers' costs, economies of scale, efficiency, market entry strategies, new product development, and other economic considerations. The contractor will be required to explain the role of specific market features in the occurrence of TSCs and provide comprehensive comparisons between analysed markets.

In particular, the task will provide explanations on the possible role of market conditions in the occurrence of TSCs. It will assess what are the links between the intensity of competition (measured with more than one alternative indicators) among manufacturers, among wholesalers and among retailers in a given market and the prevalence of TSCs.

The analysis will also determine the role of consumer-related factors, such as the purchasing power, the purchasing behaviour, consumer preferences and expectations, the consumer price elasticity and other relevant aspects.

The scope of this task in terms of product categories covered and the Member States will be identical with the scope of Task 1.

Within this task, the contractor will also look into relevant practices applied by retailers for their private label (P.L., own brand) products. These practices would be used as benchmark in the assessment of manufacturers' reasons for applying TSCs. For example, the analysis will assess whether retailers differentiate their P.L. offer across Member States in terms of product range and prices, whether their P.L. offer depends on the market conditions in a given Member State, including competition among retailers and consumer preferences, etc.

In particular, the study will reply to the following research questions:

- 1) How do manufacturers explain/justify restricting sales of certain products to certain Member States?
- 2) How do manufacturers explain/justify differentiating sales conditions (in particular the price and the range of Stock Keeping Units (SKUs) of certain products in the different Member States they operate in?
- 3) What consumer-related factors (such as consumer preferences, consumer purchasing power, consumer behaviour, etc.) determine the supplier offer, including the price, the product attributes and the range of products in particular Member States? How do those factors impact the way the distribution is organised?
- 4) What are the links between the intensity of competition a) among manufacturers, b) among wholesalers and c) among retailers in a given market and the prevalence of TSCs? Are TSCs linked to the issue of market entry or expansion of by these operators in other markets in the EU?
- 5) Is there any significant relationship between the likelihood of a product being subject to TSCs and the characteristics (e.g. size) of the manufacturer of that product?
- 6) How do marketing strategies (including promotion campaigns, sales promotion, entering a new market, etc.) impact the extent to which TSCs are used in certain product categories and in certain Member States? How do these factors and related costs explain/justify restricting sales of certain products to certain Member States or differentiating their sales conditions?
- 7) How does innovation impact the extent to which TSCs are used? Are TSCs used more often in relation to new products or other types of innovation? How can TSCs be explained/justified from this innovation-related perspective?
- 8) How do vertical integration, consolidation along the value chain affect the use of TSCs?
- 9) What is the role of regulatory barriers such as national packaging or labelling requirements in explaining suppliers restricting sales of certain products to certain Member States or differentiating their sales conditions? For the product categories covered, are there different



requirements across Member States that would oblige suppliers to adjust their offer? This aspect could be measured by identifying products/categories for which there are no regulatory barriers/heterogeneity in the sample of the study (or a big enough subsample) and compare the role of TSCs to products categories with barriers.

- 10) What patterns can be observed as regards retailer private label (P.L.) products? To what extent do products, product ranges and prices for retailer private label products differ across Member States (e.g. within the same retailer chain, the same product category)?
- 11) How do retailers explain/justify restricting sales of their certain P.L. products to certain Member States and differentiating sales conditions (in particular the price and the range of their SKUs) across Member States?
- 12) If applicable, is there any correlation between TSCs of suppliers and the TSCs on P.L. products?

This task should be based on information gathered from different sources:

- literature, including market/consumer research and marketing literature
- surveys or interviews with relevant stakeholders, including manufacturers, retailers, consumers, wholesalers (including most important players in each of the sectors)
- other relevant sources

### ***1.2.4. Task 3: The impact of TSCs***

The purpose of this task will be to present and explain the impact TSCs have on market players, in particular on retailers, wholesalers and consumers. It will also assess the impact of TSCs on the integration of the Single Market, mainly in terms of the movement of goods.

The analysis will look into the TSCs impact on the retailers and wholesalers economic performance in terms of the actual costs as well as the cost of lost opportunities. It will also assess the impact of TSCs on consumers, in particular in terms of the choice of products offered in particular Member States and the prices of those products (in relation to the consumer purchasing power).

Finally, this task will assess the reasons for TSCs in opposition to the impacts they have on the market, to indicate in what circumstances TSCs can be justified and in what situation they cause more detriment than benefit to the market players in general, including suppliers. This could also be carried out using a counterfactual perspective, i.e. assessing the possible outcomes in case TSCs were not possible.

This assessment should also look into possible impacts of the counterfactual on the environment in terms of the carbon footprint (possible in case of intensified transportation of goods), waste generation, etc.

The scope of this task in terms of product categories covered and the Member States will be identical with the scope of Task 1: minimum 4 food and 2 non-food categories, and minimum 10 Member States.

In particular, the study will reply to the following research questions:

- 1) What is the cost of TSCs / the cost of lost opportunities for retailers in the product categories covered? The assessment should also estimate the cost extrapolated to all product categories potentially affected by TSCs and sold by retailers in the EU27.
- 2) What is the impact of TSCs on consumers, mainly in terms of choice of products and prices? How much do prices for similar products differ across Member States? To what extent do the products differ across Member States? Are price differences for products (also product categories or particular brands) in line with differences in consumer purchasing power?
- 3) What would be the counterfactual? How would a situation develop if TSCs did not exist, if retailers could purchase products where and when they want?
  - a) To what extent would parallel imports develop?
  - b) What impact could this have on the suppliers' and retailers' strategies and behaviour?

For instance, to what extent and how would manufacturers:

- change their distribution channels, products and prices offered (including the range of products, their quality, etc.), services for consumers, etc.?
- adjust their innovativeness in terms of new product development?
- introduce other (new) means that would serve as TSCs?

To what extent would retailers:

- change their supply channels and sources, products and prices offered, services for consumers, etc.?
  - pass on possible benefits to consumers?
  - change their private label (P.L). offer?
- c) Is it feasible to import all required products from one market into another once a supplier removes all their TSCs? Is there a limit on the quantity due to the production and distribution network of the supplier?
  - d) What impact could non-existence of TSCs have on consumers, on the choice of products and their prices? Would they be better off? Or would there be Member States or product categories where consumer conditions would deteriorate?
  - e) To what extent would regulatory barriers such as national packaging or labelling requirements or recycling schemes still be a reason for differentiating the offer across Member States?
  - f) What would be the impact on the environment, e.g. in terms of the carbon footprint, waste generation, etc?

This task should be based on information gathered from different sources:

- Literature, including academic papers, reports, position papers, etc.
- data on product prices, price differences, purchasing power, producer margins in different product categories and different Member States, retailer margins in different product categories and different Member States
- data on the choice of products in different product categories and different Member States
- data on the choice and prices of retailer private label products in different product categories and different Member States

- surveys or interviews with relevant stakeholders, including manufacturers, retailers, consumers, wholesalers (including most important players in each of the sectors)
- natural experiments from the past, for example when some suppliers took a wider-than-national approach and started parallel imports or harmonised marketing and prices for their products
- other relevant sources

Methodology for this task must envisage developing an econometric model that could take into account the roles of different factors and, also in dynamic terms.

### *1.2.5. Task 4: The role of digitalisation, in particular of multichannel retail*

The purpose of this task will be to explore and explain the impact of multichannel retail on the existence of TSCs. The particular focus would be on the cross-border e-commerce, where consumers have access to products available in other Member States, even if those products are not available in offline shops in their domestic market.

The task will assess the impact of digitalisation in general, and multichannel retail in particular, on the suppliers strategies for product distribution. It will also look into the impact of digitalisation on retailers strategies.

The scope of this task in terms of product categories covered and the Member States will be coherent with the scope of Task 1, unless online sales for the product categories and Member States chosen for Task 1 is significantly underdeveloped and not representative. Conclusions for this task could stem not only from developments in the product categories covered but should also be based on developments in other product categories.

In particular, the study will reply to the following research questions:

- 1) How do online sales develop for different product categories covered and in different Member States covered in the last 5 years?
- 2) How do cross-border online sales develop for different product categories covered and in different Member States covered in the last 5 years?
- 3) What impact to these developments have on:
  - a. manufacturers' strategies for distribution channels
  - b. manufacturers ' sales strategies
  - c. retailers' strategies for supply channels impacted
  - d. retailers' sales strategies?
- 4) What would be the possible impact of the development of the (cross-border) online sales on the sustainability of TSCs? Would suppliers still apply TSCs if the competition from cross-border e-commerce intensifies?
- 5) What is the impact of globalisation in terms of EU manufacturers and retailers selling directly to consumers from outside of the EU, and manufacturers and retailers from outside of the EU selling directly to EU consumers?
- 6) What is the role of other aspects of digitalisation, e.g. use of big data, digitalisation of production, logistics, consolidation of the value chain, online wholesale platforms, etc.?

This task should be based on information gathered from different sources:

- literature, including academic papers, reports, position papers, etc.
- data on online sales, including on cross-border e-commerce
- surveys or interviews with relevant stakeholders, including manufacturers, retailers, consumers, wholesalers (including most important players in each of the sectors)
- other relevant sources

### ***1.2.6. Task 5: Presentation of study results to Commission stakeholders***

The contractor shall participate in minimum two meetings with the Member States and/or stakeholders organised by the Commission, including presenting relevant issues concerning the study, such as the study methodology or its outcomes or other.

## **1.3. Methodology**

In their tenders, tenderers should present and explain in detail the methodology for carrying out the particular tasks.

They should also explain how they would choose data sources. In particular, the methodology should cover criteria according to which relevant literature would be identified and used as well as relevant data would be accessed and analysed.

Tenderers should also propose particular data and indicators that could be used in the study.

They should also explain criteria to be used to prioritise product categories and choose Member States (excluding the UK) to be covered by the study.

In case a tenderer proposes to carry out interviews or surveys, the tender should specify the size and characteristics of the sample, with the aim of obtaining the largest sample possible. By sample, the Commission means the actual number of interviews/surveys accomplished. Criteria for how relevant respondents would be selected would also need to be described. The methodology should also present how relevant respondents would be approached and how a high response rate / a large sample would be ensured. The methodology could also envisage a number of in-depth interviews with experts in the field of TSCs.

If interviews or surveys are to be carried out, draft questionnaires/interview outlines must be consulted with the Commission and the final questionnaires/interview outlines must be approved by the Commission.

The tenderer should propose a methodology (or methodologies) to measure the prevalence of TSCs. The final approach to be deployed in the study should be agreed with the Commission.

Tenderers should explain the methodology of the econometric models, indicating the software packages to be used for their estimation (for example, R, Stata, etc.).

### 1.4. Deliverables

The work shall be presented in the form of a report which includes the results of tasks 1, 2, 3 and 4, as well as in form of other electronic files with data and analyses. In particular, the contractor must hand in all raw data used to perform the analysis, along with precise indications allowing the independent replication of all results (including tables and figures) presented in the final report.

### 1.5. Background

The Contractor will be able to refer its analysis to the existing sources of information which have been developed by the Commission and by other bodies. For example:

- The Commission Communication on "A European retail sector fit for the 21<sup>st</sup> century" with the underpinning Staff Working Documents and other supporting information: [https://ec.europa.eu/growth/single-market/services/retail\\_en](https://ec.europa.eu/growth/single-market/services/retail_en)
- Stakeholder position papers
- The 2013 study "Territorial supply constraints: the economic arguments" carried out by RBB Economics; [http://www.aim.be/uploads/meeting\\_documents/RBB\\_AIM\\_Report\\_April\\_2013.pdf](http://www.aim.be/uploads/meeting_documents/RBB_AIM_Report_April_2013.pdf)
- The 2018 study "Territorial supply constraints in the retail trade in Belgium, the Netherlands and Luxemburg" carried out by the Benelux Union: <http://www.benelux.int/files/9215/2696/9988/616-TSC-EN-draft3.pdf>
- The analyses of consumer choice and prices carried out by national authorities, institutes, observatories or others, e.g. price analyses published by the Belgian Ministry of Economy (<https://economie.fgov.be/fr/propos-du-spf/organisation/observatoires/observatoire-des-prix>), studies of the European Central Bank, etc.
- The 2017 study on "What do trade companies perceive as discriminatory national restrictions against their business in the Internal Market?" carried out by the Centre for European Policy
- Studies by the ECB on Cross-Country Price Dispersion in the EU
- Work of competition authorities concerning territorial supply constraints implemented by companies which are dominant in their respective markets (and hence can be subject to competition authorities' investigations for applying such practices). A prominent example is the DG Competition formal investigation into AB InBev's practices on the Belgian beer market (see documents published under Antitrust Case number 40134 at [http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40134](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40134))
- The 2014 study on the legal framework covering Business-to-Business (B2B) unfair trading practices in the retail supply chain, report for the European Commission, former DG MARKT;
- The 2018 JRC study 'Unfair Trading Practices in the Business-to-Business Retail Supply Chain',

[http://publications.jrc.ec.europa.eu/repository/bitstream/JRC112654/jrc\\_technical\\_report\\_ca\\_faggi-iamiceli\\_utp\\_final\\_1.pdf](http://publications.jrc.ec.europa.eu/repository/bitstream/JRC112654/jrc_technical_report_ca_faggi-iamiceli_utp_final_1.pdf)

### 1.6. REPORTS AND DOCUMENTS

The Contractor is to provide the required reports and documents in accordance with the conditions of the standard service contract.

The required reports will be provided in Word and pdf formats. They should include the description of the methodologies used and how these were applied in the study. In case these data collection tools are applied, the reports should also include final versions of the questionnaires / survey documents used as well as a description of the sample with its main characteristics.

The contractor will also provide underlying data and analyses in electronic format in the form of spreadsheet(s) compatible with Microsoft Excel and accompanied by the explanations necessary for a proper understanding and use of the provided information. The contractor must provide the necessary information to independently replicate all the results presented in the final report (including figures and tables). In particular, it must be included the raw data used for the statistical and econometric analysis along with scripts (e.g., \*.r, \*.do files or similar) and instructions detailing all the intermediate steps taken to reach the final results.

The contractor could also envisage providing comparative tables organised according to product categories and / or Member States, in electronic format in the form of spreadsheet(s) compatible with Microsoft Excel.

In addition, the contractor is required to draft the minutes of the meetings with the Commission.

According to Task 5, the contractor will be asked by the Commission to present its findings in a minimum number of two meetings with the Member States and/or stakeholders. The dates of these meetings will be communicated in due course.

#### MEETING REPORTS

The contractor shall draft in English and submit for approval by the Commission the minutes of the meetings with the Commission, within 5 working days after the meeting. The Commission will send its comments within 5 working days after reception of the draft minutes. If the Commission has not reacted within this period, the draft minutes shall be deemed to have been approved.

#### KICK-OFF MEETING

The kick-off meeting shall take place within three weeks of the signature of the contract.

The objective of the kick-off meeting is to ensure a mutual understanding of the contractor's plan of action and timeline for carrying out the provisions contained in the terms of reference.

In this meeting the contractor shall provide the Commission with the following information in writing:

- A description of the steps to be taken with a view to completing the work; and an explanation of the difficulties faced and/or anticipated;

- A detailed description of the contractor's plan of action and timeline for carrying out the provisions contained in the terms of reference.

### INTERIM REPORT

The interim report shall be submitted in English in Word and pdf formats by the contractor to the Commission within 3 months after the date on which the contract entered into force.

The interim report shall include at least the following:

- The findings of desk research for different tasks;
- The detailed description of the methodologies to be used for different tasks, including possible draft or final questionnaires / interview outlines and the possible econometric model to be applied in Task 3;
- The description of the possible final sample for surveys / interviews;
- The presentation of the data and information collected so far. In case of difficulties to collect the necessary data and information, the contractor shall make a clear proposal on how to address this situation.

A meeting to discuss the interim report will be organised at the earliest 10 working days after reception of the report by the Commission. The exact date will be agreed between the Commission and the contractor.

The Commission will comment on the document submitted within 30 days after the date of its reception. If the Commission has not reacted within this period, the interim report shall be deemed to have been approved.

### FINAL REPORT AND EXECUTIVE SUMMARY

The draft final report shall be submitted by the contractor to the Commission within 7 months after the date on which the contract entered into force.

The draft final report shall include all the deliverables specified in point 1.3.

A meeting to discuss the draft final report will be organised at the earliest 10 working days after reception of the report by the Commission. The exact date will be agreed between the Commission and the contractor.

The Commission will comment on the draft final report within 30 days after the date of its reception. If the Commission has not reacted within this period, the draft final report shall be deemed to have been approved.

Within 9 months from the date on which the contract entered into force, the contractor will submit the final report in its definitive form, taking full account of the observations made by the Commission on the draft final report, either by following them precisely or by explaining clearly why they have not been followed.

The final report shall also include:

- An abstract of no more than 200 words in English and French. The purpose of the abstract is to act as a reference tool helping the reader to quickly ascertain the report's subject.
- The following standard disclaimer:

“The information and views set out in this report are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this report. Neither the Commission nor any person acting on the Commission’s behalf may be held responsible for the use which may be made of the information contained therein.”

- Specific identifiers which shall be incorporated on the cover page provided by the Commission.

Together with the final report, the contractor shall submit a publishable executive summary of maximum 6 pages in English and French. It shall provide information on the (i) purpose/motivation/problem statement, (ii) methodology/procedure/approach, (iii) results/findings and (iv) conclusion/implications /recommendations. It shall include:

- The following disclaimer:

“The information and views set out in this report are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this report. Neither the Commission nor any person acting on the Commission’s behalf may be held responsible for the use which may be made of the information contained therein.”

- Specific identifiers which shall be incorporated on the cover page provided by the Commission.

The Commission will accept the final report in its definitive form or comment on it within 30 days of its reception. If the Commission has not reacted within this period, the final report shall be deemed to have been approved.

Should the Commission still not consider the final report acceptable, the contractor may be invited to amend it; in this case liquidated damages will be applied in accordance with Article II.15 [see Annex 6.2. “draft service contract”] of the contract. Should the Commission reject the final report, it may terminate the contract in accordance with Article II.18 [see Annex 6.2. “draft service contract”].

### DETAILS ON QUALITY REQUIREMENTS AND TIMING REGARDING DELIVERABLES

The reports will be submitted in 3 copies in paper version and in electronic format compatible with Word (and pdf) in correct English.

The contractor will have all deliverables verified by a person with a native or equivalent knowledge of the English language.

Where information that is not publicly available is provided by other institutions, associations or firms, the accuracy of this information, as expressed in the deliverable will have to be approved by those who have provided it to the contractor.



## 1. Technical specifications

All studies produced for the European Commission and Executive Agencies shall conform to the corporate visual identity of the European Commission by applying the graphic rules set out in the European Commission's Visual Identity Manual, including its logo.



template-visual  
identity-en.docx

Each deliverable shall provide well-structured information using clear language to present information and data in a clear manner. All reporting materials shall be submitted in electronic format in spreadsheets compatible with Word/Excel. The contractor must provide the necessary information to independently replicate all the results presented in the final report (including figures and tables). In particular, it must be included the raw data used for the statistical and econometric analysis along with scripts (e.g., \*.r, \*.do files or similar) and instructions detailing all the intermediate steps taken to reach the final results.

The relevant tasks should be accomplished in line with the timing indicated in the table below. The presentations of the findings to the public and in particular, the numerical assessment of particular restrictions, are subject to prior approval of the Commission.

Time-line	Meetings	Reports	Approval of reports	Payments
Contract signature	Kick-off meeting (within 3 weeks after signature of the contract)			Pre-financing 30% (see point I.5.1 for details)
1 month	Progression teleconference			
2 months	Progression teleconference			
3 months	Meeting on interim report (earliest 10 working days after reception of report)	Interim report		
4 months			Approval of interim report and interim payment 20% after the approval of the report (see point I.5.2 for details) within 60 days	

## 1. Technical specifications

			after reception	
5 months	Progression teleconference			
6 months	Progression teleconference			
7 months	Meeting on draft final report (earliest 10 working days after reception of report)	Draft final report		
8 months			Comments on draft final report (within 30 days after reception)	
9 months		Final report		
10 months	A presentation by the Contractor to the Expert Group on the Implementation of the Services Directive or another relevant body indicated by the Commission		Approval of the final report and payment of the balance 50% after the approval of the final report (see point I.5.3 for details) within 60 days after reception	

## **2. CONTRACTUAL CONDITIONS**

### **2.1. NATURE OF THE CONTRACT**

Prevalence, reasons for and impacts of territorial supply constraints in food and non-food product categories.

### **2.2. STARTING DATE OF THE CONTRACT AND DURATION OF THE TASKS**

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

The duration of the tasks shall not exceed 10 months.

The execution of the tasks may not start before the contract has been signed. The period of execution of the tasks may be extended, only with the written agreement of the contracting parties, before the end of the period originally stated in the contract.

### **2.3. TERMS OF PAYMENT**

Payments shall be made in accordance with Articles I.4, I.5 & II.21 of the draft service contract.

The payment scheme will consist of

- one pre-financing of 30 %,
- one interim payment of 20 %
- and the balance.

The schedule and the procedure for the approval of payments and the documents to be submitted are described in Articles I.5, II.21, II.22 and II.23 and in Annex I to the draft contract referred to above.

### **2.4. GUARANTEES**

The Contractor may be required to provide a guarantee for pre-financing of 30% of the amount specified under I.4.1 of the contract, in compliance with article II.21.5 of the draft contract. The Commission reserves the right to cancel the pre-financing foreseen, according to its management risk analysis or in the case the awarded tenderer refuses such pre-financing guarantee, and to modify the final version of the contract accordingly.

A model guarantee is provided in annex 6.2 of these tendering specifications.

### 2.5. PLACE OF PERFORMANCE

The place of performance of the tasks shall be the Contractor's premises or any other place indicated in the tender, with the exception of the Commission's premises.

### 2.6. SUBCONTRACTING

Subcontracting is defined as the situation where a contract has been or is to be established between the Commission and a contractor and where the contractor, in order to carry out that contract, enters into legal commitments with other legal entities for performing part of the service. However, the **Commission has no direct legal commitment with the subcontractor(s).**

At the level of the liability towards the Commission, tasks provided for in the contract may be entrusted to subcontractors, but **the contractor retains full liability towards the Commission for performance of the contract as a whole.**

Accordingly:

- The Commission will treat all contractual matters (e.g. payments) exclusively with the contractor, whether or not the tasks are performed by a subcontractor;
- The Commission will privilege direct contacts with the contractor, who is responsible for executing the contract;
- Under no circumstances can the contractor avoid liability towards the Commission on the grounds that the subcontractor is at fault. The contractor remains notably fully responsible for timely execution.

A contract which includes subcontracting is subject to certain general conditions in particular the provisions on subcontracting, checks and audits, and confidentiality. Where justified by the subject matter of the contract, a statement of confidentiality may be required to be submitted to the Commission. **The subcontracting arrangement between the contractor and his subcontractor is supposed to render directly applicable all those contractual obligations with regard to the Commission to the subcontractor.**

Consequently, the bid must clearly identify the subcontractor(s) and document their willingness to accept the tasks and their acceptance of the terms and conditions set out in paragraph 3.2, in particular article II.24 of the standard service contract by submitting the form in annex 6.4, filled in and signed.

Tenderers must inform the subcontractor(s) and include in their sub-contracting documents that Article II.24 of the standard service contract may be applied to sub-contractors.

Once the contract has been signed, Article II.10 of the above-mentioned service contract shall govern the subcontracting.

Special attention of tenderers is brought to Article II.10.4, according to which the contracting authority may request the contractor to replace a subcontractor found to be in a situation provided for in points (d) and (e) of Article II.18.1.

### 2.7. JOINT OFFERS

A joint offer is a situation where an offer is submitted by a group of tenderers. If awarded the contract, the tenderers of the group will have an equal standing towards the Commission in executing a supply, service or works contract.

The Commission will not request consortia to have a given legal form in order to be allowed to submit a tender, but reserves the right to require a grouping to adopt a given legal form **before the contract is signed** if this change is necessary for proper performance of the contract. This can take the form of an entity with or without legal personality but offering sufficient protection of the Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

The documents required and listed in the present specifications must be supplied by every member of the grouping; the checklist in annex 6.6 will help verifying the level of information to be provided according to the role of each entity in the tender.

Each member of the grouping assumes a joint and several liability towards the Commission.

To this end all members of the grouping should sign a **power of attorney** (see models in annex 6.5). This document must be scanned and included in the offer. For groupings not having formed a common legal entity, model 1 should be used, and for groupings with a legal entity in place model 2.

**The offer (Tender Preparation Report) has to be signed by the joint tender leader (hand or electronic signature, as explained in section 1 of the invitation to tender).**

Partners in a joint offer assume joint and several liability towards the Commission for the performance of the contract as a whole.

Statements, saying for instance: "that one of the partners of the joint offer will be responsible for part of the contract and another one for the rest", or "that more than one contract should be signed if the joint offer is successful", are thus incompatible with the principle of joint and several liability. The Commission will disregard any such statement contained in a joint offer, and reserves the right to reject such offers without further evaluation, on the grounds that they do not comply with the tendering specifications.

**An economic operator can only participate once as a tenderer**, whether as sole tenderer, leader in a joint tender or partner in a joint tender. **The economic operator may however agree to act as a subcontractor in a distinct bid** from which it is participating as either of the aforementioned options. However, such a situation is not advisable for the high potential of conflicts of interest it may generate.

### **3. GENERAL TERMS AND CONDITIONS FOR THE SUBMISSION OF TENDERS**

These specifications follow the publication of a contract notice in OJ S.

#### **3.1. HOW TO SUBMIT A TENDER: REGISTRATION IN THE PARTICIPANT REGISTER AND VALIDATIONS BY THE EU VALIDATION SERVICES**

In order to submit a tender using eSubmission, tenderers (each member of the group in the case of a joint tender) will need to register in the European Commission's Participant Register - an online register of organisations participating in EU calls for tenders or proposals. On registering, each organisation obtains a Participant Identification Code (PIC, 9-digit number) which acts as its unique identifier in the above register. Instructions on how to create a PIC can be found in the [PIC-management Quick Guide for Economic Operators](#). Tenderers already registered in the Participant Register shall reuse their existing PICs when preparing tenders in e-Submission.

In the course of the procedure the EU Validation Services (at Research Executive Agency) may contact tenderers (each member of the group in the case of a joint tender) via the Participant Register and ask for supporting documents with respect to the legal existence and status. The notifications concerning the legal status validation will be sent to the e-mail address of the contact person indicated in the Participant Register. It is the responsibility of the tenderer (each member of the group in the case of a joint tender) to provide a valid e-mail address and to check it. Please note that a request for supporting documents in no way implies that the tenderer has been successful.

The documents that may be requested by the EU Validation Services in the course of the procedure are listed in Annex 6.7

The documents that shall be submitted with the tender in eSubmission are listed in the checklist available in Annex 6.6.

#### **3.2. ACCESS TO THE MARKET**

The present procurement documents are drawn up in respect of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012

Participation in procurement procedures is open on equal terms to all natural and legal persons from one of the EU Member States and to all natural and legal persons in a third country which has a special agreement with the European Union in the field of public procurement on the conditions laid down in that agreement. It is also open to international organisations.

Where the Plurilateral Agreement on Government Procurement (GPA) concluded within the WTO applies, the contracts are also open to nationals of the countries that have ratified this Agreement, on the conditions laid down therein.

The parties to the GPA can be consulted on the following web page:  
[https://www.wto.org/english/tratop\\_e/gproc\\_e/gp\\_gpa\\_e.htm](https://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm).



For British tenderers:

Please be aware that after the UK's withdrawal from the EU, the rules of access to EU procurement procedures of economic operators established in third countries will apply to tenderers from the UK depending on the outcome of the negotiations. In case such access is not provided by legal provisions in force, tenderers from the UK could be rejected from the procurement procedure.

Operators in third countries which have signed a bilateral or multilateral agreement with the European Union in the field of public procurement must be allowed to take part in the tendering procedure on the conditions laid down in this agreement. The Commission refuses tenders submitted by operators in third countries which have not signed such agreements for the present call for tender.

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

**Variants are not allowed.**

#### 3.3. OPPORTUNITIES FOR SMALL AND MEDIUM SIZED ENTERPRISES

The Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs has the task to promote opportunities for Small and Medium sized Enterprises (SMEs) and is aiming in its activities to facilitate the activities of SMEs. In this context, **SMEs are particularly encouraged to submit tenders** either on its own if feasible or by constituting a bid using either of the options mentioned in paragraphs 2.6 and 2.7.

The **Enterprise Europe Network** provides advice and support to **SMEs** to help them to innovate and grow internationally. As part of this service package, EEN members also provide advice/information on tender opportunities.

Please contact an EEN member in your region for further details: <https://een.ec.europa.eu/>

The Commission has further published a brochure on "Doing business with the European Commission – Tips for potential contractors":

[http://ec.europa.eu/budget/library/biblio/publications/business/doing\\_business\\_en.pdf](http://ec.europa.eu/budget/library/biblio/publications/business/doing_business_en.pdf)

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

### **4.1. STRUCTURE OF THE TENDER**

- Tenders shall be perfectly legible so there can be no doubt as to words and figures.
- Tenders shall be clear and concise.
- Tenders shall be written in one of the official languages of the European Union.
- Tenders shall include the information and documents requested by the Commission in order to assess the tender. In order to help tenderers presenting a complete tender, a checklist of the documents to be submitted is provided in annex 6.6. This checklist does not need to be included in the tender, but it is encouraged to use it in order to ease the assessment of the tenders;
- Prices shall be established in euros.

All tenders must be submitted using the eSubmission application and shall contain all the following information:

#### ***4.1.1. Administrative information***

**Tenderers** may choose between presenting a **joint tender** (see 2.7) and introducing a tender as a **sole economic operator**, in both cases with the possibility of having one or several subcontractors (see 0).

Whichever type of bid is chosen, the tender shall stipulate the legal status and role of each legal entity in the tender proposed and the monitoring arrangements that exist between them and, failing this, the arrangement they foresee to establish if they are awarded the contract (see 0 and 2.7).

In the e-Submission application the tenderers should fill out the required identification information in line with the instructions in the e-Submission Quick Guide available at: [https://webgate.ec.europa.eu/esubmission/assets/documents/manual/quickGuide\\_en.pdf](https://webgate.ec.europa.eu/esubmission/assets/documents/manual/quickGuide_en.pdf). The sole tenderer or all members of a joint tender must be identified with a PIC – Participant Identification Code. No PIC is needed for subcontractors.

It is not required at the level of the tender submission, to attach neither Legal Entity Form nor Financial Identification Form.

#### ***4.1.2. The Exclusion and Selection Criteria Form***

Tenderers or their representatives shall provide a declaration on their honour, duly signed and dated in which they:

1. state whether or not they are in one or more of the situations referred to in Articles 136 to 140 and 141 of the Financial Regulation and detailed in the form;



2. state whether they fulfil the selection criteria
3. undertake to submit to the Commission any additional document relating to the exclusion/selection criteria, that the Commission considers necessary to perform its checks, within fifteen calendar days following the receipt of the Commission's request.

To this end, tenderers must fill in and sign the form in Annex 6.1 to these specifications.

The declaration(s) shall be signed by an authorised representative either with advanced electronic signature based on qualified certificates or by scanning and uploading a hand signed copy.

The hand-signed originals of the declaration on honour must be sent by letter to the contracting authority's postal address indicated under Heading I.1 of the contract notice at the latest on the first working day following the electronic submission of tender.

**Where the bid involves more than one legal entity (including subcontractors), each entity must provide the form.**

#### ***4.1.3. Evidence relating to the selection criteria***

Tenderers shall provide proof of their economic and financial capacity by submitting the documents stated under paragraph 5.2.2 below. In case of a joint tender/tender with subcontractors, the documents concerning each economic operator shall be submitted under the respective party name.

Tenderers shall equally provide the proof of their professional and technical capacity by submitting the documents required under paragraph 5.2.3 below.

If evidence has already been provided for another procurement procedure and if the documents are up to date, reference can be made to the earlier procedure. The declaration on honour stating the reference of the procedure and the confirmation that there has been no change in the situation must be uploaded in the eSubmission application.

#### ***4.1.4. Technical proposal***

The technical proposal needs to be uploaded in the step "Tender Data" of the wizard of the e-Submission application. The e-Submission application allows attachment of as many documents as necessary.

Tenderers shall include in their bids a **technical proposal addressing the aspects detailed in the technical specifications** in section 1.1.

The technical proposal shall comply with the technical specifications and provide, as a minimum, the information specifically requested.

The following aspects should in particular be taken into consideration when drafting the tender:

- (a) methodology for implementation, including the criteria to prioritise product categories and to choose Member States to be covered by the study; in case a tenderer proposes to carry out interviews or surveys, the tender should specify the size and characteristics of the sample, with the aim of obtaining the largest sample possible;
- (b) reasons for the proposed methodology;
- (c) project management and procedures for internal evaluation;
- (d) level of involvement and activity of other stakeholders;
- (e) role of each partner in case of a joint bid and/or use of subcontractors, the role of each partner and subcontractor in the implementation of the contract;
- (f) team proposed for implementation of the contract. The composition of the team, which will be implementing the project must be properly described. Team staff should be singled out by function (E.g. project managers, administrator, secretary, expert, technical assistant);
- (g) a plan of action with description of activities and their timing.

Due consideration should be given to the award criteria and method as stipulated under section 5.3 in this document.

Please note that, to grant equal treatment of all tenders, **it is not possible to modify offers after their submission in relation to the technical and financial proposals.**

Please note that incomplete financial or technical proposals may have a considerable negative impact on the evaluation of award criteria. Proposals deviating from the technical specifications risk to be considered as non-conform to the specifications.

**The technical specifications and the tenderer's bid shall be integral parts of the contract and will constitute annexes to the contract.**

##### 4.1.5. Financial proposal

A complete financial proposal, including the breakdown of the price, to be provided per category, as indicated in the tender specifications needs to be uploaded in step "Tender Data" of the wizard of the e-Submission application.

The total price needs also to be encoded directly in the e-Submission application (Total amount).

It is the responsibility of each tenderer to ensure that the total amount of the tender inserted in the relevant tab of the eSubmission application corresponds exactly to the value reflected in the uploaded financial proposal. In case of discrepancies, only the value reflected in the financial proposal will be taken into account.

**Tenderers must use the following format to formulate their financial proposal**

<i>Price component</i>	<i>Unit price</i>	<i>Quantity</i>	<i>Total</i>
Human resources			
Person X (role)			
Person Y (role)			

#### 4. Form and content of the tender

.....			
Subtotal (1)			
Other			
Item X			
Item Y			
.....			
Subtotal (2)			
<b>TOTAL (1+2)</b>			

The tenderer's attention is drawn to the following points:

- (1) prices must be expressed in euros;
- (2) **prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT.** The European Union Institutions are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union of 8 April 1965 (OJ 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 Union is exempt from VAT;
- (3) Prices shall not be conditional and be directly applicable by following the technical specifications.
- (4) **Prices shall be fixed** and not subject to revision
- (5) The reference price for the award of the contract shall consist of **the price payable**, as stated in Article I.4.1 of the contract.

The quoted price must be a fixed amount which includes all charges (including travel and subsistence). Travel and subsistence expenses are not refundable separately.

For each category of staff to be 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. Flat-rate amounts should be avoided. If, exceptionally, they are used, specimen quotations for the flat-rate amounts must be provided.

#### Meetings with the Commission:

The Contractor will be required to attend at least four meetings in Brussels including a kick-off meeting, a presentation to the Expert Group on the Implementation of the Services Directive or another relevant group of stakeholders and, if this is deemed necessary, two progression meetings organised after sending the interim and draft final reports. It is also possible that the Contractor will be required to present the study on a Commission event in Brussels, e.g. a conference.

The Contractor will be required to draft the minutes of the meeting and send them to the Commission for approval. The kick-off meeting is expected to be organised at the latest 3 weeks after the signature of the contract. The interim meeting, if necessary, is estimated to be organised after reception of the interim report. The final meeting, if necessary, is expected to be organised after reception of the draft final report. The Commission can further ask the Contractor to attend other meeting to discuss the state of play of the project. The Contractor should be represented by a delegation that should be able to clarify any point linked to the project that could be raised by the Commission. All meetings and meeting reports will be in English.

Travel and subsistence expenses to participate to all meetings are to be included in the global amount of the tender (fixed price). No reimbursable expenses are foreseen under this contract.

**Bids involving more than one legal entity must specify the amounts for each legal entity.**

**The Commission will reject tenders where no technical offers or financial offers are proposed. Non-compliance with the minimum requirements in section 1.1 will also result in rejection from award.**

**The Commission reserves the right, however, to request clarification of the tender after the opening. It may furthermore require (additional) evidence in relation to the administrative information, exclusion and selection criteria. The information required shall be provided within a time-limit stipulated in its request and under the conditions explained in section 3**

## **5. ASSESSMENT AND AWARD OF CONTRACT**

The assessment will be based on the information provided in the tender. The Commission reserves the right to use any other information from public or specialist sources. This assessment will be performed by applying the criteria set out in these specifications. To award the contract, the assessment of admissible bids (see paragraph 1 of the Invitation to tender) will be carried out under exclusion, selection and award criteria in no particular order.

The aim of this assessment is:

- (1) to verify compliance with the exclusion criteria as defined in articles 136 to 140 and 141 of the Financial Regulation, in order to determine whether the tenderer can take part in the procedure and, where applicable, be awarded the contract;
- (2) to verify compliance with the selection criteria, technical and professional capacity and economic and financial capacity required by these specifications;
- (3) to verify compliance with the minimum requirements specified in the tender documents and to assess the technical and financial offer in relation to the award criteria, including compliance with the quality thresholds set in these specifications.

### **5.1. APPLICATION OF EXCLUSION CRITERIA AND EXCLUSION OF TENDERERS**

#### ***5.1.1. Declaration***

As mentioned above under paragraph 4.1.2 tenderers or their representatives shall provide the form in Annex 6.1 duly signed and dated in which they declare:

1. not to be in one or more of the situations referred to in Articles 136 to 140 and 141 of the Financial Regulation and detailed in the form;
2. to undertake to submit to the Commission any additional document relating to the exclusion criteria, that the Commission considers necessary to perform its checks, within 15 days following the receipt of the Commission's request.

#### ***5.1.2. Grounds for disqualification***

In accordance with Article 141 of the Financial Regulation, a contract for a given procedure may not be awarded to an economic operator who:

- is in an exclusion situation established in accordance with Article 136 to 140;
- has misrepresented the information required as a condition for participating in the procedure or has failed to supply that information;
- was previously involved in the preparation of procurement documents where this entails a distortion of competition that cannot be remedied otherwise.

### 5.1.3. Evidence

The tenderer to whom the contract is to be awarded shall provide, within the 15 days following the receipt of the letter informing him of the proposed award of the contract and preceding the signature of the contract, the evidence confirming the declaration referred to in paragraph 5.1.1, (for the details of requested documents please see directly the text of the declaration).

The Commission may waive the obligation of a tenderer to submit the documentary evidence referred to above if such evidence has already been submitted to it for the purposes of another procurement procedure and provided that the issuing date of the documents does not exceed one year 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 to the Commission in a previous procurement procedure and confirm that no changes in his situation have occurred. He shall indicate in its tender all the references necessary to allow the Commission services to check this evidence.

You may refer to the e-Certis website listing the certificates available in EU Member States:

<http://ec.europa.eu/markt/ecertis/login.do>

### 5.2. APPLICATION OF SELECTION CRITERIA (SELECTION OF TENDERERS)

This part of the tender concerns the criteria and evidence relating to the technical and professional capacity and economic and financial capacity of the service provider(s) involved in the bid. It should also contain any other document that the tenderer(s) wish(es) to include by way of clarification.

**An economic operator may rely on the capacities of other entities**, regardless of the legal nature of the links which it has with them. In that case, evidence must be provided that it will have at its disposal the resources necessary for performance of the contract, for example by producing a clear undertaking on the part of those entities to place those resources at its disposal.

If the economic and financial selection criteria are fulfilled by relying on a third party, the contracting authority may demand, if that tender wins the contract, that this third party signs the contract (becomes a contractor) or, alternatively, provides a joint and several first-call guarantee.

If the third party chooses to sign the contract, the contracting authority should ensure that it is not in exclusion situation and it has access to the market.

**If several service providers are involved in the bid**, each of them must have the professional and technical capacity to perform the tasks assigned to them in the tender and have the necessary economic and financial capacity.

This rule applies to all legal entities once they have chosen to be tenderers. If the tender includes subcontractors, the Commission reserves the right to request evidence of their economic and financial capacity, where the tasks subcontracted represent a substantial part of the contract.

## 5.2.1. Selection criteria

<b><u>SELECTION CRITERIA</u></b>
<b>1. FINANCIAL AND ECONOMIC CAPACITY</b>
<ul style="list-style-type: none"> <li>- 1.1 Turnover of the last two financial years above EUR 500 000; this criterion applies to the tenderer as a whole, i.e. the combined capacity of all members of a group in case of a joint tender.</li> <li>- 1.2 Sufficient financial capacity in relation to the pre-financing foreseen under the contract</li> <li>- 1.3 Reliability of the mitigating measures presented to cover possible deficiencies in the evidence presented for the above criteria.</li> </ul>
<b>2. TECHNICAL AND PROFESSIONAL CAPACITY</b>
<i>a. Criteria relating to tenderers</i>
Tenderers (in case of a joint tender the combined capacity of all tenderers and identified subcontractors) must comply with the following criteria:
<ul style="list-style-type: none"> <li>-2.1 The tenderer must prove experience in analysing economic and regulatory data in at least 10 Member States and must prove experience in the field of economic and market studies, focused on / with the element of analysing business practices of market participants. This must be proven by at least 1 project delivered (or taking part in a consortium delivering such project) in the last five years showing a similar geographical coverage. Tenderers must at the same time, and also proven by at least 1 project delivered, demonstrate their capacity to deliver services according to the highest standards of quality and accuracy, i.e. methodologically transparent and replicable.</li> </ul>
<ul style="list-style-type: none"> <li>- 2.2 The tenderer must prove experience in conducting studies on the retail sector and the supply chain of fast moving consumer goods (FMCG).</li> </ul>
<ul style="list-style-type: none"> <li>- 2.3 The tenderer must prove experience in desk research, interview and survey techniques, constructing and applying econometric models, as well as presenting complex information in a clear and user-friendly manner. This must be proven by at least 1 project delivered (or taking part in a consortium delivering such project) in the last five years showing a similar geographical coverage.</li> </ul>
<ul style="list-style-type: none"> <li>- 2.4 The tenderer must prove capacity to work and draft reports in English.</li> </ul>
<i>b. Criteria relating to the team delivering the service</i>
The team proposed by the tenderer(s) must possess the following combination of qualifications:

- 2.5 Project Manager: university level education and at least 5 years of experience in project management, including overseeing project delivery, quality control of delivered service, client orientation and conflict resolution experience in project of a similar size and coverage (geographical scope of at least 6 Member States), with experience in management of teams of at least 10 people. She/he must have experience with economic studies or studies of business practices.
- 2.6 Team for economic and other analysis: Each of the team members assigned to collect and analyse data must have at least 3 years of professional experience in economic studies. At least 1 member of the team must have experience in studying the retail sector, and at least 1 member of the team must have experience in studying the supply chain of FMCG.
- 2.7 Team for conducting possible interviews and surveys: Each of the team members assigned to conduct interviews and surveys must have at least 3 years of professional experience in this field.
- 2.8 Language quality check: At least two members of the team must have native or equivalent language skills in English, as confirmed by a certificate delivered by a language school.

These criteria will be assessed on the basis of the documents referred to in 5.2.2 and 5.2.3.

#### **5.2.2. Evidence of the economic and financial capacity of the service provider(s)**

All tenderers shall provide proof of their economic and financial capacity by submitting the following documents:

- a) A full copy of the concerned legal entities' annual accounts (balance sheet, profit and loss account, notes on the accounts and auditors' remarks when applicable) of the last two years, as approved by the general assembly of the company and, where applicable, audited and/or published. These documents must be signed by the authorised representative of the tenderer;
- b) Alternatively to a), a filled out Annex 6.3. This document must be signed by an authorised representative of the tenderer.
- c) A statement of overall turnover and turnover concerning the tasks, supplies or services covered by this contract for the last three financial years;
- d) Appropriate statements from banks or evidence of professional risk indemnity insurance, for legal entities facing the impossibility to fully present evidence a).

If, for some exceptional reason which the Commission considers justified, a tenderer is unable to provide one or other of the above documents, he or she may prove his or her economic and financial capacity by any other document which the Commission considers appropriate. In any case, the Commission must at least be notified of the exceptional reason and its justification in



the tender. The Commission reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

The Commission may waive the obligation of a tenderer to submit the documentary evidence referred to in paragraph 1 if such evidence has already been submitted to it for the purposes of another procurement procedure and provided that it complies with the requirements of the present call for tenders. In such a case, the tenderer shall indicate in the tender reference to the contract and Commission service for which the evidence has been provided, in order to allow the Commission services to check this evidence.

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

The ability of service providers to perform services will be assessed in particular with regard to their know-how, efficiency, experience and reliability as specified in paragraph 5.2.1.

Evidence of the technical and professional capacity of the providers involved in the tender may be furnished on the basis of the following documents:

a) the educational and professional qualifications of the service provider or contractor and/or those of the firm's managerial staff and, in particular, those of the person or persons responsible for providing the services or carrying out the tasks; The Europass curriculum vitae format (<http://europass.cedefop.europa.eu/en/documents/curriculum-vitae>) shall be filled in and signed, by each person involved in the execution of the tasks foreseen in the tender. The precise contractual link with the tenderer will also be described. The CVs must specify:

- The different diplomas obtained (copies of which may be requested by the Commission where appropriate);
- Languages spoken;
- Expertise and experience relevant to the subject matter of the present invitation to tender. For the project leader, proof of experience in project management;
- A list of relevant single- or co-authored publications (copies of which may be requested by the Commission where appropriate).

This evidence refers to selection criteria 2.5 to 2.8.

b) a list of relevant services provided in the past five years, with sums, dates and recipients, public or private. The most important services shall be accompanied by certificates of satisfactory execution, specifying that they have been carried out in a professional manner and have been fully completed.

This evidence refers to selection criteria 2.1 to 2.4.

c) a description of the measures employed to ensure the quality of services

This evidence refers to selection criteria 2.1 to 2.4.

## 5. Assessment and award of contract

d) an indication of the proportion of the contract which the service provider may intend to subcontract.

In addition, the tenderer is asked to provide any other document required to assess the criteria 2.1 to 2.8.

By submitting a tender, each legal entity involved therein accepts the possibility of a check being carried out by the Commission on its technical capacities and, if necessary, on its research facilities and quality control measures.

In addition, all tenderers are informed that they may be asked to prove that they are authorised to perform the contract under national law, as evidenced by inclusion in a professional or trade register, by a sworn declaration or certificate, by membership of a specific organisation, by express authorisation, or by entry in the VAT register.

### 5.3. APPLICATION OF AWARD CRITERIA (ASSESSMENT OF TENDERS)

The contract will be awarded to the **most cost-effective tender**. The following award criteria will be applied:

## 5. Assessment and award of contract

No	Qualitative award criteria	Weighting (maximum points)
1.	<i>Quality of the proposed criteria to prioritise the product categories and choose the Member States to be covered by the study.</i>	10 points
2.	<i>Quality and relevance of the proposed methodology to collect data, including on how the completeness and accuracy of the data would be ensured for all Tasks.</i>	35 points
3.	<i>Quality and relevance of the proposed methodology to analyse and present data, including possible advanced analytical techniques.</i>	25 points
4.	<i>Quality of the proposed work plan, project management structure and resource allocation within the team as well as for each project phase, based on the detailed breakdowns provided. This includes how the tenderer distributes the roles and responsibilities among team members for each task, including the person in charge of drafting the final report and the time planning for the project.</i>	20 points
5.	<i>Detailed quality control system applied to the project ensuring the quality and timing of the deliverables, in particular the quality of the data collected and used, the final report the language quality check for the written deliverables (English), and continuity of the service in case of absence of the member of the team. The quality system should be detailed in the tender and specific to the tasks at hand (including processes and staff assigned).</i>	10 points
<b>Total number of points</b>		<b>100 points</b>

The selected tender is assessed according to the above qualitative award criteria and the weighting applicable to each criterion.

### ***Tenders scoring***

***\* less than 70 % in the overall points total or***

***\* less than 50% in the points awarded for a single criterion***

***will be excluded from the rest of the assessment procedure.***

Price Award criterion
<b>Total price</b>

Tenders presenting a total price superior to the maximum amount of 310 000 € will be excluded from the rest of the assessment procedure.

The contract will be awarded to the tender which is the most economically advantageous on the basis of the ratio between the total points scored and the price.

Final Evaluation
Final score = (technical quality score [x 70%]) + (financial score [x 30%]).
Financial score = (lowest total price of the tender meeting the minimum quality thresholds / total price of the tender being considered) x 100

**Tenders should elaborate on all points addressed by these specifications in order to score as many points as possible. The mere repetition of mandatory requirements set out in these specifications, without going into details or without giving any added value, may result in a significantly lower score. Where essential elements of these specifications are not expressively covered by the tender, the Commission may decide to give a zero mark for the relevant qualitative award criteria.**

**The tender may be rejected as non-compliant, when the minimum requirements set in the specifications are not met.**

#### **5.4. INFORMATION FOR TENDERERS**

The Commission will notify all tenderers of decisions reached concerning the outcome of the procedure, indicating the grounds on which the decision was taken. This also applies to a decision not to award a contract or to cancel the procedure.

The Commission will inform the rejected tenderers of the reasons for their rejection. Each tenderer who is not in an exclusion situation and whose tender is compliant with the procurement documents and who makes a request in writing, shall be informed of the characteristics and relative advantages of the selected tender, of the name of the successful tenderer and of the price or contract value.

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.

**5.5. AWARD OF THE CONTRACT**

The procurement procedure is concluded by a contract signed by the parties. In this case, the General Terms and Conditions applicable to service contracts referred to above shall apply.

After the period of validity of the tender has expired, conclusion of the contract shall be subject to the tenderer's agreement in writing.

The Commission shall not sign the contract or framework contract with the successful tenderer until a standstill period of 10 calendar days has elapsed, counting from the day after simultaneous dispatch of the notification by electronic means to all tenderers (successful and unsuccessful).

After the award, during standstill period, the Commission will request to the tenderer proposed for award the evidence on exclusion criteria defined in section 5.1.3. If this evidence was not provided or proved to be unsatisfactory the Commission reserves the right to cancel the award procedure or to change the award decision to the benefit of the next best ranked tenderer on condition that he satisfies with the provision of the evidence on exclusion.

**6. ANNEXES**

**ANNEXES**

**6.1. EXCLUSION AND SELECTION CRITERIA FORM (INVITATION TO TENDER NO 739/PP/GRO/IMA/19/1131/10974)**  
*[This form is mandatory]*

Comments *[in grey italics in square brackets]* are to be deleted and/or replaced by appropriate data.

**Declaration on honour on  
exclusion criteria and selection criteria**

The undersigned *[insert name of the signatory of this form]*, representing:

<i>(only for natural persons)</i> himself or herself	<i>(only for legal persons)</i> the following legal person:
ID or passport number:  (‘the person’)	Full official name: Official legal form: Statutory registration number: Full official address: VAT registration number:  (‘the person’)

The person is not required to submit the declaration on exclusion criteria if the same declaration has already been submitted for the purposes of another award procedure of the same contracting authority<sup>2</sup>, provided the situation has not changed, and that the time that has elapsed since the issuing date of the declaration does not exceed one year.

In this case, the signatory declares that the person has already provided the same declaration on exclusion criteria for a previous procedure and confirms that there has been no change in its situation:

Date of the declaration	Full reference to previous procedure

**I – Situation of exclusion concerning the person**

(1) declares that the above-mentioned person is in one of the following situations:	YES	NO
a) it is bankrupt, subject to insolvency or winding-up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under EU or national laws or regulations;	<input type="checkbox"/>	<input type="checkbox"/>
b) it has been established by a final judgement or a final administrative decision that the person is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law;	<input type="checkbox"/>	<input type="checkbox"/>

<sup>2</sup> The same EU institution, agency, body or office.

c) it has been established by a final judgement or a final administrative decision that the person is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:		
(i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract or an agreement;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) entering into agreement with other persons with the aim of distorting competition;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) violating intellectual property rights;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) attempting to influence the decision-making process of the contracting authority during the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
d) it has been established by a final judgement that the person is guilty of the following:		
(i) fraud, within the meaning of Article 3 of Directive (EU) 2017/1371 and Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) corruption, as defined in Article 4(2) of Directive (EU) 2017/1371 and 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, drawn up by the Council Act of 26 May 1997, and conduct referred to in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the applicable law;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) conduct related to a criminal organisation, as referred to in Article 2 of Council Framework Decision 2008/841/JHA;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) money laundering or terrorist financing, within the meaning of Article 1(3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;	<input type="checkbox"/>	<input type="checkbox"/>
(vi) child labour or other offences concerning trafficking in human beings as referred to in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
e) it has shown significant deficiencies in complying with the main obligations in the performance of a contract or an agreement financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by a contracting authority, the European Anti-	<input type="checkbox"/>	<input type="checkbox"/>



Fraud Office (OLAF) or the Court of Auditors;		
f) it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;	<input type="checkbox"/>	<input type="checkbox"/>
g) it has been established by a final judgment or final administrative decision that the person has created an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business.	<input type="checkbox"/>	<input type="checkbox"/>
h) ( <i>only for legal persons</i> ) it has been established by a final judgment or final administrative decision that the person has been created with the intent provided for in point (g).	<input type="checkbox"/>	<input type="checkbox"/>
i) for the situations referred to in points (c) to (h) above the person is subject to: <ul style="list-style-type: none"> <li>i. facts established in the context of audits or investigations carried out by the European Public Prosecutor's Office after its establishment, the Court of Auditors, the European Anti-Fraud Office (OLAF) or the internal auditor, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body;</li> <li>ii. non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;</li> <li>iii. facts referred to in decisions of entities or persons being entrusted with EU budget implementation tasks;</li> <li>iv. information transmitted by Member States implementing Union funds;</li> <li>v. decisions of the Commission relating to the infringement of Union competition law or of a national competent authority relating to the infringement of Union or national competition law; or</li> <li>vi. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>

## II – Situations of exclusion concerning natural or legal persons with power of representation, decision-making or control over the legal person and beneficial owners

### Not applicable to natural persons, Member States and local authorities

(2) The signatory declares that a natural or legal person who is a member of the administrative, management or supervisory body of the above-mentioned legal person, or who has powers of representation, decision or control with regard to the above-mentioned legal person (this covers e.g. company directors, members of management or supervisory bodies, and cases where one natural or legal person holds a majority of shares), or a beneficial owner of the person (as referred to in point 6 of article 3 of Directive (EU) No 2015/849) is in one of the following situations:	YES	NO	N/A
Situation (c) above (grave professional misconduct)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Situation (d) above (fraud, corruption or other criminal offence)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (e) above (significant deficiencies in performance of a contract )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (f) above (irregularity)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (g) above (creation of an entity with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (h) above (person created with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### **III – Situations of exclusion concerning natural or legal persons assuming unlimited liability for the debts of the legal person**

(3) declares that a natural or legal person that assumes unlimited liability for the debts of the above-mentioned legal person is in one of the following situations:	YES	NO	N/A
Situation (a) above (bankruptcy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (b) above (breach in payment of taxes or social security contributions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### **IV – Grounds for rejection from this procedure**

(4) declares that the above-mentioned person:	YES	NO
Was previously involved in the preparation of the procurement documents used in this award procedure, where this entailed a breach of the principle of equality of treatment including distortion of competition that cannot be remedied otherwise.	<input type="checkbox"/>	<input type="checkbox"/>

### **V – Remedial measures**

If the person declares one of the situations of exclusion listed above, it must indicate measures it has taken to remedy the exclusion situation, thus demonstrating its reliability. This may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines or of any taxes or social security contributions. The relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to this declaration. This does not apply for situations referred in point (d) of this declaration.

### **VI – Evidence upon request**

Upon request and within the time limit set by the contracting authority the person must provide information on natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control, including legal and natural persons within the ownership and control structure and beneficial owners.

It must also provide the following evidence concerning the person itself and the natural or legal persons on whose capacity the person intends to rely, or a subcontractor and concerning the natural or legal persons which assume unlimited liability for the debts of the person:

For situations described in (a), (c), (d), (f), (g) and (h), production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the person showing that those requirements are satisfied.

For the situation described in point (b), production of recent certificates issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the person is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The person is not required to submit the evidence if it has already been submitted for another award procedure of the same contracting authority<sup>3</sup>. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

## VII – Selection criteria

(1) declares that the above-mentioned person complies with the selection criteria applicable to it individually as provided in the tender specifications:	YES	NO	N/A
(a) It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section [insert] of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable economic and financial criteria indicated in section [insert] of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) It fulfills the applicable technical and professional criteria indicated in section [insert] of the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

***The contracting authority must adapt the table above to the criteria indicated in the tender specifications (i.e. insert extra rows for each criterion or delete irrelevant rows).***

(2) if the above-mentioned person is the <b>sole tenderer</b> or the <b>leader in case of joint tender</b> , declares that:	YES	NO	N/A
(d) the tenderer, including all members of the group in case of joint tender and including subcontractors if applicable, complies with all	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<sup>3</sup> The same institution or agency.

the selection criteria for which a consolidated assessment will be made as provided in the tender specifications.			
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### VIII – Evidence for selection

The signatory declares that the above-mentioned person is able to provide the necessary supporting documents listed in the relevant sections of the tender specifications and which are not available electronically upon request and without delay.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure of the same contracting authority<sup>4</sup>. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

***The above-mentioned person may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial penalty) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.***

Full name

Date

Signature

---

<sup>4</sup> The same institution of agency.



## 6.2. MODEL GUARANTEE

### [MODEL] LETTER FOR PRE-FINANCING FIRST DEMAND GUARANTEE<sup>5</sup>

[Financial institution/Bank (Letterhead)]  
[Place/Date]

European Community  
Represented by the European Commission  
Directorate-General for Internal Market, Industry,  
Entrepreneurship and SMEs – [Unit]  
B – 1049 Belgium

**Reference: Contract [Insert number and exact title]**

#### ARTICLE 1 – DECLARATION ON GUARANTEE, AMOUNT AND PURPOSE

We, the undersigned [*insert name and address of the financial institution or bank*] ('the Guarantor') hereby confirm that we give the European Union, represented by the European Commission ('the Commission'), an unconditional, irrevocable and independent first-demand guarantee consisting in the undertaking to pay to the Commission a sum equivalent to the amount of:

EUR [*insert amount in figures and in words*]

upon simple demand, for guarantee of the pre-financing(s) stipulated in the contract [*insert number and exact title*], [*Option 1*]: ('the grant agreement') signed between the Commission and [*insert name and address*]<sup>6</sup>, ('the Beneficiary') [*Option 2*]: ('the grant decision') taken by the Commission and addressed to the [*insert name and address*], ('the Beneficiary') [*Option 3*]: ('the contract') concluded between the Commission and [*insert name and address*], ('the Contractor').

#### ARTICLE 2 – EXECUTION OF GUARANTEE

If the Accounting Officer of the Commission gives notice that the Contractor has for any reason failed to reimburse pre-financings paid by the Commission, we, acting for account of the Contractor, shall pay immediately up to the above amount, in EUR, without exception or objection, into [ a bank account designated by the Commission] [the following bank account: [*insert number*]], on receipt of the first written request from the Commission. We shall inform the Commission in writing as soon as the payment has been made.

#### ARTICLE 3 – OBLIGATIONS OF THE GUARANTOR

1. We waive the right to require exhaustion of remedies against the Contractor, any right to withhold performance, any right of retention, any right of avoidance, any right to offset, and the right to assert any other claims which the Contractor may have against the Commission under the contract or in connection with it or on any other grounds.

---

<sup>5</sup> The footnotes are internal instructions for the authorising officers only and must be deleted before the guarantee is signed. [Plain text]: items to be filled in. [Text in italics]: these items are optional and may be deleted depending on the context of the guarantee.

<sup>6</sup> In case of multi-beneficiaries arrangements please refer to the name and address of the coordinator if the coordinator is solely responsible for repayment to the Commission at the time of payment of the balance (see e.g. article II.26.1 of the model grant agreement with multiple beneficiaries).

2. Our obligations under this guarantee shall not be affected by any arrangements or agreements made by the Commission with the Contractor which may concern its obligations under the contract.
3. We shall inform immediately the Commission in writing, by registered letter or by courier with written receipt or equivalent, in the event of a change of our legal status, ownership or address.

#### ARTICLE 4 – DATE OF ENTRY INTO FORCE

This guarantee shall come into force upon its signature. If, on the date of its signature, the [first] pre-financing has not been paid to the Contractor, this guarantee shall enter into force on the date on which the Contractor receives the [first] pre-financing.

#### ARTICLE 5 – END DATE AND CONDITIONS OF RELEASE

1. We may be released from this guarantee only with the Commission's written consent.
2. This guarantee shall expire on return of this original document by the Commission to our offices.
3. [Option 1: This must occur at the latest 30 days after the payment of the balance under the contract or four months after the notification of the corresponding debit note.]

[Option 2: This must occur at the latest 30 days after the pre-financing under contract has been cleared through interim payment[s].]

[Option 3 to be used only if the law applicable to the guarantee imposes a precise expiry date: This must occur, in any case, at the latest, on [indicate a precise date].]

4. After expiry, this guarantee shall become automatically null and no claim relating thereto shall be receivable for any reason whatsoever.

#### ARTICLE 6 – APPLICABLE LAW AND COMPETENT JURISDICTION

[Option 1: Any dispute concerning this guarantee shall be governed by and construed in accordance with the law of [insert law applicable to the contract] and shall fall within the sole competence of the Courts of [insert the corresponding national courts as indicated in the contract].]

[Option 2: Any dispute concerning this guarantee shall be governed by and construed in accordance with the law of [insert country of establishment of the Contractor or Bank] and shall fall within the sole competence of the [insert the corresponding national] Courts.

#### ARTICLE 7 - ASSIGNMENT

The rights arising from this guarantee may not be assigned.

Done at [insert place], on [insert date]

[Signature]

[Signature]

[*Function at the Financial Institution/Bank*]

[*Function at the Financial Institution/Bank*]



**6.3. FINANCIAL AND ECONOMIC CAPACITY OVERVIEW FORM (INVITATION TO TENDER  
No 739/PP/GRO/IMA/19/1131/10974**

Financial and Economic Capacity Overview			
Currency : <i>EURO</i>		Figures (000)	
	N* (* most recent figures available)	N-1	N-2
<b>Total Balance Sheet</b>			
TRADE DEBTORS <i>Amounts due by commercial customers</i>			
CAPITAL and RESERVES (Equity) <i>Amounts owned by the company</i>			
TRADE CREDITORS <i>Amounts due to commercial suppliers</i>			
SHORT TERM DEBT			
LONG TERM DEBT			
LIQUIDITY <i>Bank accounts, cash at hand</i>			
<b><u>About PROFIT &amp; LOSS</u></b>			
TURNOVER			
ORDINARY RESULT			
EXTRAORDINARY RESULT			
INCOME TAX			
NET RESULT			

**You may add any data that you would consider of vital relevance for your organisation and for the understanding of the above figures.**

Comments: Please explain BRIEFLY important variations from one year to another if appropriate. In case of negative equity or repeated losses, please explain how the future of the organisation will be ensured.

**6.4. SUBCONTRACTOR / LETTER OF INTENT 739/PP/GRO/IMA/19/1131/10974**

**Prevalence, reasons for and impacts of territorial supply constraints in food and non-food product categories**

The undersigned: .....

Name of the company/organisation: .....

Address: .....

Declares hereby the intention to collaborate in the execution of the tasks subject to the above call for tender, in accordance with the terms of the offer to which the present form is annexed, if the contract is awarded to ... .... *(name of the tenderer)*.

Declares hereby accepting the general conditions attached to the tendering specifications for this call for tender, and in particular art. II.24 in relation with checks and audits.

**Full name**

**Date**

**Signature**

.....

## 6.5. POWER OF ATTORNEY

### POWER OF ATTORNEY – MODEL 1

# Agreement / Power of Attorney

## (DESIGNATING ONE OF THE COMPANIES OF THE GROUP AS LEADER AND GIVING A MANDATE TO IT)

We the undersigned:

- Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- Signatory 2 (Name, Function, Company, Registered address, VAT Number)
- .....
- Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company, HEREBY AGREE AS FOLLOWS:

In case the European Commission awards **[Framework]** Contract .... (« **the Contract** ») to Company 1, Company 2, ..., Company N (« **the Group Members** »), based on the joint offer submitted by them on ... .. for the supply of ..... and/or the provision of services for ... (« **the Supplies and/or the Services** »).

(1) As co-signatories of the Contract, all the Group Members:

- (a) Shall be jointly and severally liable towards the European Commission for the performance of the Contract.
- (b) Shall comply with the terms and conditions of the Contract and ensure the proper execution of their respective share of the Supplies and/or the Services.

(2) To this effect, the Group Members designate Company X as **Group Leader**. *[N.B.: The Group Leader has to be one of the Group Members]*

(3) Payments by the European Commission related to the Supplies or the Services shall be made through the Group Leader's bank account .*[Provide details on bank, address, account number, etc.].*

(4) The Group Members grant to the Group Leader all the necessary powers to act on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks:

- (a) The Group Leader shall sign any contractual documents—including the **[Framework]** Contract, **[Specific Agreements]** and Amendments thereto—and issue any invoices related to the Supplies or the Services on behalf of the Group Members.
- (b) The Group Leader shall act as single point of contact for the European Commission in connection with the Supplies and/or the Services to be provided under the Contract. It shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European Commission, and shall see to a proper administration of the Contract.

Any modification to the present agreement / power of attorney shall be subject to the European Commission's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the European Commission in connection with the Supplies and/or the Services to be provided under the Contract have ceased to exist. The parties cannot terminate it before that date without the Commission's consent.

Signed in ..... on .....

Name

Function

Company

Name

Function

Company

Name

Function

Company

Name

Function

Company

## POWER OF ATTORNEY – MODEL 2

# Agreement / Power of Attorney

### (CREATING THE GROUP AS SEPARATE ENTITY, APPOINTING A GROUP MANAGER AND GIVING A MANDATE TO HIM/HER)

We the undersigned:

- Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- Signatory 2 (Name, Function, Company, Registered address, VAT Number)
- .....
- Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company, HEREBY AGREE AS FOLLOWS:

In case the European Commission awards **[Framework]** Contract .... (« **the Contract** ») to Company 1, Company 2, ..., Company N (« **the Group Members** »), based on the joint offer submitted by them on ... ..... for the supply of ..... and/or the provision of services for ... (« **the Supplies and/or the Services** »).

(1) As co-signatories of the Contract, all the Group Members:

- (a) Shall be jointly and severally liable towards the European Commission for the performance of the Contract.
- (b) Shall comply with the terms and conditions of the Contract and ensure the proper execution of their respective share of the Supplies and/or the Services.

(2) To this effect, the Group Members have set up under the laws of ..... the Group ..... (« **the Group** »). The Group has the legal form of a ..... [*Provide details on registration of the Group: VAT Number, Trade Register, etc.*].

(3) Payments by the European Commission related to the Supplies or the Services shall be made through the Group's bank account . [*Provide details on bank, address, account number, etc.*].

(4) The Group Members appoint Mr/Ms ..... as **Group Manager**.

(5) The Group Members grant to the Group Manager all the necessary powers to act alone on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks :

- (a) The Group Manager shall sign any contractual documents—including the **[Framework]** Contract, **[Specific Agreements]** and Amendments thereto—and issue any invoices related to the Supplies or the Services on behalf of the Group Members.
- (b) The Group Manager shall act as single point of contact for the European Commission in connection with the Supplies and/or the Services to be provided under the Contract. He/she shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European Commission, and shall see to a proper administration of the Contract.

Any modification to the present agreement / power of attorney shall be subject to the European Commission's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the European Commission in connection with the Supplies and/or the Services to be provided under the Contract have ceased to exist. The parties cannot terminate it before that date without the Commission's consent.

Signed in ..... on ..... ..

Name

Function

Company

Name

Function

Company

Name

Function

Company

Name

Function

Company

## 6.6. CHECKLIST OF DOCUMENTS TO BE SUBMITTED IN THE E-SUBMISSION APPLICATION

The purpose of the table below is to facilitate the preparation of the tender by providing an overview of the documents that must be included (marked by ■) depending on the role of each economic operator in the tender (joint tender leader in joint bid, partner in joint bid, sole tenderer, subcontractor).

Some of the documents are only relevant in cases of joint bids or when subcontractors are involved. Additional documents might be necessary depending on the specific characteristics of each tender.

Description	Joint tender leader in joint bid	Partners in joint bid	Sole tenderer	Sub-contractor(s)
Power of attorney of partners in joint bid indicating the group leader ( <a href="#">see annex 6.5</a> )		■		
Evidence that the person signing the documents is an authorised representative of the tenderer	■	■	■	
Letter of intent of subcontractor ( <a href="#">see annex 6.4</a> )				■
Exclusion and selection Criteria form ( <a href="#">see section 5.1.1</a> and <a href="#">annex 6.1</a> )	■	■	■	■
Evidence of Economic and financial capacity ( <a href="#">see section 5.2.2</a> and <a href="#">annex 6.3</a> )	■	■	■	
Evidence of Technical and professional capacity ( <a href="#">see section 5.2.3</a> )				
Go to the following page to fill in the CV: <a href="http://europass.cedefop.europa.eu/en/documents/curriculum-vitae">http://europass.cedefop.europa.eu/en/documents/curriculum-vitae</a>	■	■	■	■

The following sections must be provided in the bid, their absence would mean rejection of the bid for incompleteness:

Description	Joint tender leader or sole tenderer
Technical Offer (see section <a href="#">4.1.4</a> and <a href="#">1.</a> )	■
Financial Offer ( <a href="#">see section 4.1.5</a> )	■

Once all information and documents have been encoded and uploaded in the e-Submission application and you consider that the tender is complete, the application will require you to download the Tender Report generated by the e-Submission application. It will have to be signed (hand signature or electronic signature) and uploaded, as explained in the [eSubmission Quick Guide for economic operators.](#)

Description	Joint tender leader in joint bid	Partners in joint bid	Sole tenderer	Sub-contractor or	Where to upload a document in e-Submission
Tender Report	■		■		In Step "Tender Report" of the e-Submission wizard



## 6.7. DOCUMENTS WHICH MAY BE REQUESTED BY THE EU VALIDATION SERVICES IN THE COURSE OF THE PROCEDURE

I. For the purposes of the **legal validation** of the entities:

- Signed **legal entity identification form**<sup>7</sup> :

- Natural Person

- Private Law Body

- Public Law Body

- **Official VAT document** or — if the entity is not registered for VAT — the proof of VAT exemption, not older than 6 months.
- Signed **Financial Identification Form**, and
- the following additional documents, where relevant:

Private body	Registration extract (not older than 6 months).
Public body	Copy of the act, law, decree or decision that established the organisation as a public body (or, if this doesn't exist, any other official legal document that proves this).
Non-profit organisation	Copy of an official document attesting that the organisation has a legal or statutory obligation not to distribute profits to shareholders or individual members.  The certificate of tax exemption may only constitute an indication of the non-profit status of the entity which has to be assessed together with other elements.
Research organisation	Copy of an official document attesting that one of the main objectives of the entity is carrying out research or technological development.
Secondary or higher education establishment	Copy of an official document attesting that the organisation is recognised such as 'secondary or higher education establishment' by the

<sup>7</sup> Available at [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

	national education system and is entitled to deliver diplomas recognized by the State.
International organisation  International organisation of European interest	Copy of the relevant international treaty creating the organisation under international public law.
Natural person	Copy (legible) of valid identity card or passport
Entities without legal personality	<p>- Copy of an official document attesting that the representatives of the entity have the capacity to undertake legal obligations on its behalf.</p> <p>- Copy of an official document attesting that the entity has the same operational and financial capacity as that of a legal entity: i.e.</p> <ul style="list-style-type: none"> <li>• a document showing patrimony/asset/capital that is separated and different from those of the members/owners of the entity, and</li> <li>• a copy of the rules providing that creditors can rely on this patrimony/asset/capital and — in case of liquidation/insolvency — are reimbursed before the patrimony/asset/capital is divided between the owners/members.</li> </ul>

## II. For the purpose of the **LEAR** appointment:

- LEAR appointment letter — completed, dated and signed (handwritten blue-ink original signature) by the legal representative and the LEAR
- Declaration of Consent to the Participant Portal Terms & Conditions — completed, dated and signed (handwritten blue-ink original signature) by the legal representative of the organisation
- Copy of the official, valid proof of identity for the legal representative (identity document issued by the national authority containing the photo and signature of the holder, i.e. ID card, passport or driving license)

- Copy of the official, valid proof of identity for the LEAR (identity document issued by the national authority containing the photo and signature of the holder, i.e. ID card, passport or driving licence) and
- Valid official document to demonstrate that the legal representative has the authority to engage the organisation in its entirety.