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**ANNEX 1. Administrative information form****Identification of the tenderer**
(to be completed)

Acting in the capacity of:

- ☐ Leader of group of economic operators
☐ Member of group of economic operators
☐ Single tenderer

PRIVATE AND PUBLIC ENTITIES

(To be filled in by each member of the group of economic operators in case of a joint tender)

LEGAL NAME OF ORGANISATION :	
Are you a Small or Medium Size Enterprise in accordance with Commission Recommendation (2003/361/EC)?	YES <input type="checkbox"/> / NO <input type="checkbox"/>
Please indicate the total number of employees	

PERSON AUTHORISED TO SIGN THE CONTRACT	
Name	
First name	
Function	
SECOND PERSON AUTHORISED TO SIGN THE CONTRACT	
Name	
First name	
Function	
Are they authorised to sign independently of each other?	YES <input type="checkbox"/> / NO <input type="checkbox"/>
Have you enclosed a copy of the notice of appointment of the persons authorised to represent the tenderer in dealings with third parties?	YES <input type="checkbox"/> / NO <input type="checkbox"/>

CONTACT PERSON	
Name	
First name	
Function	
Telephone	
Fax	
Email address	
Other contact details	

**INDIVIDUALS (To be filled in by each member of the group of economic operators in case of a joint tender)**

NAME :	
First name	
Function	
Telephone	
Fax	
Email address	
Other contact details	



ANNEX 2. Legal entity form

A standard form for individuals, private entities and public entities in each Member State language is available at the following Internet address:

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm



THIS "LEGAL ENTITY" SHEET MUST BE COMPLETED AND SIGNED, AND SUBMITTED TOGETHER WITH A LEGIBLE PHOTOCOPY OF THE IDENTITY DOCUMENT

LEGAL ENTITY

PRIVACY STATEMENT

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm#en

Please use CAPITAL LETTERS and LATIN CHARACTERS when filling in the form.

NATURAL PERSON

I. PERSONAL DATA	
FAMILY NAME(S) ① <input type="text"/>	
FIRST NAME(S) ① <input type="text"/>	
DATE OF BIRTH	<input type="text"/> DD <input type="text"/> MM <input type="text"/> YYYY
PLACE OF BIRTH (CITY, VILLAGE)	COUNTRY OF BIRTH <input type="text"/>
TYPE OF IDENTITY DOCUMENT	
IDENTITY CARD <input type="checkbox"/> PASSPORT <input type="checkbox"/> DRIVING LICENCE ② <input type="checkbox"/> OTHER ③ <input type="checkbox"/>	
ISSUING COUNTRY <input type="text"/>	
IDENTITY DOCUMENT NUMBER <input type="text"/>	
PERSONAL IDENTIFICATION NUMBER ④ <input type="text"/>	
PERMANENT PRIVATE ADDRESS	<input type="text"/>
POSTCODE	P.O. BOX <input type="text"/> CITY <input type="text"/>
REGION ⑤ <input type="text"/>	COUNTRY <input type="text"/>
PRIVATE PHONE <input type="text"/>	
PRIVATE E-MAIL <input type="text"/>	

II. BUSINESS DATA	
<u>If YES, please provide business data and attach copies of official supporting documents</u>	
Do you run your own business without a separate legal personality (e.g. sole traders, self-employed etc.) and you provide as such services to the Commission, other Institutions, Agencies and EU-Bodies? YES <input type="checkbox"/> NO <input type="checkbox"/>	BUSINESS NAME <input type="text"/>
	(if applicable) <input type="text"/>
	VAT NUMBER <input type="text"/>
	REGISTRATION NUMBER <input type="text"/>
	PLACE OF REGISTRATION: CITY <input type="text"/>
COUNTRY <input type="text"/>	

DATE

SIGNATURE

① As indicated on the official document.

② Accepted only for Great Britain, Ireland, Denmark, Sweden, Finland, Norway, Iceland, Canada, United States and Australia.

③ Failing other identity documents: residence permit or diplomatic passport.

④ See table with corresponding denominations by country.

⑤ To be completed with Region, State or Province by non EU countries only, excluding EFTA and candidate countries.

**LEGAL ENTITY**

PRIVACY STATEMENT

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm#en

Please use CAPITAL LETTERS and LATIN CHARACTERS when filling in the form.

PRIVATE/PUBLIC LAW BODY WITH LEGAL FORM

OFFICIAL NAME ①	<input type="text"/>		
	<input type="text"/>		
	<input type="text"/>		
BUSINESS NAME (if different)	<input type="text"/>		
	<input type="text"/>		
ABBREVIATION	<input type="text"/>		
LEGAL FORM	<input type="text"/>		
ORGANISATION TYPE	FOR PROFIT	<input type="checkbox"/>	
	NON FOR PROFIT	<input type="checkbox"/>	NGO ② YES <input type="checkbox"/> NO <input type="checkbox"/>
MAIN REGISTRATION NUMBER ③	<input type="text"/>		
SECONDARY REGISTRATION NUMBER (if applicable)	<input type="text"/>		
PLACE OF MAIN REGISTRATION	CITY	<input type="text"/>	
	COUNTRY	<input type="text"/>	
DATE OF MAIN REGISTRATION	<input type="text"/>	<input type="text"/>	<input type="text"/>
	DD	MM	YYYY
VAT NUMBER	<input type="text"/>		
ADDRESS OF HEAD OFFICE	<input type="text"/>		
	<input type="text"/>		
POSTCODE	<input type="text"/>	P.O. BOX	<input type="text"/>
		CITY	<input type="text"/>
COUNTRY	<input type="text"/>	PHONE	<input type="text"/>
E-MAIL	<input type="text"/>		

DATE**STAMP****SIGNATURE OF AUTHORISED REPRESENTATIVE**

① National denomination and its translation in EN or FR if existing.

② NGO = Non Governmental Organisation, to be completed if NFPO is indicated

③ Registration number in the national register of companies. See table with corresponding field denomination by country.

**LEGAL ENTITY**

PRIVACY STATEMENT

http://ec.europa.eu/budget/library/contracts_grants/info_contracts/privacy_statement_en.pdf

Please use CAPITAL LETTERS and LATIN CHARACTERS when filling in the form.

PUBLIC LAW BODY ①

OFFICIAL NAME ②	<input type="text"/> <input type="text"/> <input type="text"/>		
ABBREVIATION	<input type="text"/>		
MAIN REGISTRATION NUMBER ③	<input type="text"/>		
SECONDARY REGISTRATION NUMBER (if applicable)	<input type="text"/>		
PLACE OF MAIN REGISTRATION	CITY <input type="text"/>	COUNTRY	<input type="text"/>
DATE OF MAIN REGISTRATION	<input type="text"/> DD	<input type="text"/> MM	<input type="text"/> YYYY
VAT NUMBER	<input type="text"/>		
OFFICIAL ADDRESS	<input type="text"/> <input type="text"/>		
POSTCODE	<input type="text"/>	P.O. BOX	<input type="text"/>
CITY	<input type="text"/>		
COUNTRY	<input type="text"/>	PHONE	<input type="text"/>
E-MAIL	<input type="text"/>		

DATE	STAMP
SIGNATURE OF AUTHORISED REPRESENTATIVE	

PLEASE COMPLETE AND SIGN THIS FORM AND ATTACH COPIES OF OFFICIAL SUPPORTING DOCUMENTS (RESOLUTION, LAW, REGISTER(S) OF COMPANIES, OFFICIAL GAZETTE, VAT REGISTRATION, ETC.)


- ① Public law body WITH LEGAL PERSONALITY, meaning a public entity being able to represent itself and act in its own name, i.e. being capable of suing or being sued, acquiring and disposing of property, entering into contracts. This legal status is confirmed by the official legal act establishing the entity (a law, a decree, etc.).
- ② National denomination and its translation in EN or FR if existing.
- ③ Registration number in the national register of the entity.



ANNEX 3. Financial identification form

A standard form for individuals, private entities and public entities in each Member State language is available at the following Internet address:

http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

	
FINANCIAL IDENTIFICATION	
PRIVACY STATEMENT http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm#en	
Please use CAPITAL LETTERS and LATIN CHARACTERS when filling in the form.	
BANKING DETAILS ①	
ACCOUNT NAME ②	<input type="text"/>
IBAN/ACCOUNT NUMBER ③	<input type="text"/>
CURRENCY	<input type="text"/>
BIC/SWIFT CODE	<input type="text"/> BRANCH CODE ④ <input type="text"/>
BANK NAME	<input type="text"/>
ADDRESS OF BANK BRANCH	
STREET & NUMBER	<input type="text"/>
TOWN/CITY	<input type="text"/> POSTCODE <input type="text"/>
COUNTRY	<input type="text"/>
ACCOUNT HOLDER'S DATA AS DECLARED TO THE BANK	
ACCOUNT HOLDER	<input type="text"/>
STREET & NUMBER	<input type="text"/>
TOWN/CITY	<input type="text"/> POSTCODE <input type="text"/>
COUNTRY	<input type="text"/>
REMARK	<input type="text"/>
BANK STAMP + SIGNATURE OF BANK REPRESENTATIVE ⑤	DATE (Obligatory) <input type="text"/>
	SIGNATURE OF ACCOUNT HOLDER (Obligatory) <input type="text"/>
<p>① Enter the final bank data and not the data of the intermediary bank.</p> <p>② The account name is usually the one of the account holder. However, the account holder may have chosen to give a different name to its bank account.</p> <p>③ Fill in the IBAN Code (International Bank Account Number) if it exists in the country where your bank is established</p> <p>④ Only applicable for US (ABA code), for AU/NZ (BSB code) and for CA (Transit code). Does not apply for other countries.</p> <p>⑤ It is preferable to attach a copy of RECENT bank statement. Please note that the bank statement has to confirm all the information listed above under 'ACCOUNT NAME', 'ACCOUNT NUMBER/IBAN' and 'BANK NAME'. With an attached statement, the stamp of the bank and the signature of the bank's representative are not required. The signature of the account-holder and the date are ALWAYS mandatory.</p>	

**ANNEX 4. Questionnaire for joint offers and/or subcontracting**

This questionnaire has to be completed by the tenderer.

In case of joint tender this questionnaire has to be completed by the leader.

Joint offer

1. Does your offer involve more than one tenderer? Yes No

The questions No 2 – 4 shall be answered only if the answer is affirmative.

2. Please fill in the name of the economic operators having power of attorney for the group of tenderers and acting as a co-ordinator:

.....

3. Please fill in the names of the other economic operators taking part in the joint offer:

.....

.....

4. If a group of economic operators or similar entity exists, please fill in the name and the legal status of the entity:

.....

.....

Subcontracting

5. Does your offer involve subcontracting? Yes No

If the answer is yes, please complete question number 6, and the next page once for each subcontractor.

6. List of subcontractors:

.....

.....

.....

.....

.....

**Reasons, roles, activities and responsibilities of subcontractors.**

Please complete this page once for each subcontractor.

Name of the subcontractor:

.....

Contact person:

.....

Telephone number, e-mail address:

.....

Reasons for subcontracting:

.....

Role, activities and responsibilities of the subcontractor:

.....

The volume or the proportion of the subcontracting:

.....

Do you intend to rely on capacities from the subcontractor in order to fulfill the selection criteria? If yes, specify which selection criterion – financial and economic capacity or technical and professional capacity – and be aware that the tenderer must provide the documents which make it possible to assess the selection criteria to the extent that the subcontractor puts its resources at the disposal of the tenderer.

.....

.....

**ANNEX 5. Letter of availability of a proposed subcontractor(s)****Letter of availability of proposed subcontractor**

All specific features of a specific project or lot are set out in the detailed description of the project/lot in Part 2 (Technical specifications) of this invitation to tender.

Letter of Intent

I the undersigned, Mr/Ms

In my capacity as the subcontractor's representative/freelancer, hereby declare

Name & address of the subcontractor	
Number and title of the tendering procedure	
Name of the tenderer	
In the event that the contract is awarded to the aforementioned tenderer, the subcontractor undertakes to perform the subcontracted section of the aforementioned contract in accordance with the conditions of the tendering procedure and the tender submitted by the tenderer.	
Date	Signature

**ANNEX 6. Power of attorney****Model 1****(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:

- (1) The European Commission has awarded Contract following Invitation to Tender No XX/SXX title: xxxxx, lot n° xxxx.... (« **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** »).
- (2) 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.
- (3) 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*]
- (4) 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.*].
- (5) 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****(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:

- (1) The European Commission has awarded Contract following Invitation to Tender No XX/SXX title: xxxxx, lot n° xxxx.... (« **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** »).
- (2) 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.
- (3) 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.*].
- (4) 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.*].
- (5) The Group Members appoint Mr/Ms as **Group Manager**.



- (6) 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



ANNEX 7. Declaration on grounds for exclusion (to be provided by each partner in case of joint tender and by each subcontractor)

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

INVITATION TO TENDER: ESTAT/A/2017/006

Title: Provision of a training programme for the ENP-South countries

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:	Full official name: Official legal form: Statutory registration number: Full official address: VAT registration number:

I - SITUATION OF EXCLUSION CONCERNING THE PERSON

(1) declares that the above-mentioned person is in one of the following situation:	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 national legislation 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 law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract;	<input type="checkbox"/>	<input type="checkbox"/>
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;	<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 any of the following:		
(i) fraud, within the meaning of 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 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of EU Member States, drawn up by the Council Act of 26 May 1997, and in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the legal provisions of the country where the contracting authority is located, the country in which the person is established or the country of the performance of the contract;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA;	<input type="checkbox"/>	<input type="checkbox"/>
iv) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC 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 forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
e) the person has shown significant deficiencies in complying with the main obligations in the performance of a contract 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 an Authorising Officer, OLAF or the Court of Auditors;	<input type="checkbox"/>	<input type="checkbox"/>
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) for the situations of grave professional misconduct, fraud, corruption, other criminal offences, significant deficiencies in the performance of the contract or irregularity, the applicant is subject to: <ul style="list-style-type: none"> i.facts established in the context of audits or investigations carried out by the Court of Auditors, OLAF or internal audit, 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; 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; iii.decisions of the ECB, the EIB, the European Investment Fund or international 	<input type="checkbox"/>	<input type="checkbox"/>

<p>organisations;</p> <p>iv. decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law; or</p> <p>v. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.</p>		
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II - SITUATIONS OF EXCLUSION CONCERNING NATURAL PERSONS WITH POWER OF REPRESENTATION, DECISION-MAKING OR CONTROL OVER THE LEGAL PERSON

Not applicable to natural persons, Member States and local authorities

(2) declares that a natural 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 the company directors, members of the management or supervisory bodies, and cases where one natural person holds a majority of shares) is in one of the following situations:	YES	NO
Situation (c) above (grave professional misconduct)	<input type="checkbox"/>	<input type="checkbox"/>
Situation (d) above (fraud, corruption or other criminal offence)	<input type="checkbox"/>	<input type="checkbox"/>
Situation (e) above (significant deficiencies in performance of a contract)	<input type="checkbox"/>	<input type="checkbox"/>
Situation (f) above (irregularity)	<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 whether the above-mentioned person is in one of the following situations or not:		
(4) declares that the above-mentioned person:	YES	NO
h) has distorted competition by being previously involved in the preparation of procurement documents for this procurement procedure	<input type="checkbox"/>	<input type="checkbox"/>

V - REMEDIAL MEASURES

If the person declares one of the situations of exclusion listed above, it should indicate the measures it has taken to remedy the exclusion situation, thus demonstrating its reliability. They may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines. The relevant documentary evidence



which appropriately illustrates the remedial measures taken should be provided in annex to this declaration. This does not apply for the 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 shall provide information on the persons that are members of the administrative, management or supervisory body, as well as the following evidence concerning the person or the natural or legal persons which assume unlimited liability for the debt of the person:

For situations described in (a), (c), (d) or (f), 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 (a) or (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 procurement procedure. 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

(5) 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 4.4.1 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 4.5.1.b 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 4.5.1.b of the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6) if the above-mentioned person is the sole tenderer or the leader in case of joint tender , 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 the selection criteria for which a consolidated assessment will be made as provided in the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**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. 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

**ANNEX 8. Compulsory reply form for financial offer****INVITATION TO TENDER: ESTAT/A/2017/006****Title:** Provision of a training programme for the ENP-South countries**N.B. Tenderers are required to indicate prices exclusive of VAT.**

Prices indicated in the following tables must adhere to these guidelines:

- Prices must be expressed in euros and will not be affected by any changes in the rate of the euro against other currencies.
- Prices may contain only two decimals.
- Prices must be net of VAT.
- All items in the price tables must be completed, failing which the bid will be considered null and void. No clear cells may be left blank. If the price of an item is 0 euros, tenderers must indicate it in that way (no symbols: -, /, etc.).

TENDERER:

.....
.....

	FINANCIAL PROPOSAL IN EURO (EXCL. VAT)¹
	Price
Course 1	
Course 2	
Course 3	
Course 4	
Course 5	
<u>Total amount of bid:</u>	

All costs associated with the completion of the work, including overheads such as infrastructure, administration, management and travel costs should be included in the financial proposal.

¹ The prices comprises all tasks (tasks from 1 to 8) as well as the kick off meetings

**ANNEX 9. Draft contract****SERVICE CONTRACT**NUMBER – **XXXX.XXX.XXX-XXXX.XXX**

1. The European Union (“the Union”), represented by the European Commission (“the contracting authority”) represented for the purposes of signing this contract by [**forename, surname, function, department of authorising officer**], of EUROSTAT,

on the one part, and

Option 1 – in case of only one tenderer

2. **Full official name**

Official legal form

Statutory registration number or ID or passport number

Full official address

VAT registration number

“the contractor”, represented for the purposes of the signature of this contract by **forename, surname, function of legal representative**,

on the other part,

Option 2 – in case of joint tender (group of economic operators/consortium)

2. **Full official name**

Official legal form

Statutory registration number or ID or passport number

Full official address

VAT registration number

appointed as the leader of the group by the members of the group that submitted the joint tender,

(repeat these data as many times as members of the group of economic operators)

collectively “the contractor”, represented for the purposes of the signature of this contract by **forename, surname, function of legal representative and name of company in the case of a joint tender**,

on the other part,



HAVE AGREED

to the **special conditions**, the **general conditions for service contracts** and the following annexes:

Annex I – Tender specifications (reference No ESTAT/A/2017/006 published on **insert date**)

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

Annex III – Declaration on the list of pre-existing rights

Annex IV – Power of Attorney¹

Annex V – Template: Commitment on statistical confidentiality²

which form an integral part of this contract ("the contract").

This contract sets out the obligations of the parties during and after the duration of this contract.

All documents issued by the contractor (end-user agreements, general terms and conditions, etc.) except its tender are held inapplicable, unless explicitly mentioned in the special conditions of this contract. In all circumstances, in the event of contradiction between this contract and documents issued by the contractor, this contract prevails, regardless of any provision to the contrary in the contractor's documents.

¹ In case of group of economic operators/ ex-consortium

² Applicable if the contractor has to access to sensitive data, and after agreement of ESTAT LISO.

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I. SPECIAL CONDITIONS

I.1. ORDER OF PRIORITY OF PROVISIONS

If there is any conflict between different provisions in this contract, the following rules must be applied:

- (a) The provisions set out in the special conditions take precedence over those in the other parts of the contract.
- (b) The provisions set out in the general conditions take precedence over those in the other annexes.
- (c) The provisions set out in the tender specifications (Annex I) take precedence over those in the tender (Annex II).

I.2. SUBJECT MATTER

The subject matter of the contract is "**Provision of a training programme for the ENP-South countries**".

I.3. ENTRY INTO FORCE AND DURATION

I.3.1 The contract enters into force on the date on which the last party signs it.

I.3.2 The *performance of the contract* cannot start before its entry into force.

I.3.3 The duration of the *performance of the contract* must not exceed 24 months. *Performance of the contract* starts on 8 January 2018.

The period of *performance of the contract* may be extended only with the express written agreement of the parties before the expiration of such period.

I.4. PRICE

I.4.1 Price of the contract and maximum amount

The price payable under this contract excluding renewals, reimbursement of expenses and price revision is EUR **(amount in figures and in words)**

I.4.2 Price revision index

Price revision is not applicable to this contract.

I.4.2 Reimbursement of expenses

Reimbursement of expenses is not applicable to this contract.

I.5. PAYMENT ARRANGEMENTS

I.5.1 Pre-financing

Pre-financing is not applicable to this contract.

I.5.2 Interim payment

1st interim payment

1. The contractor (or leader in the case of a joint tender) may claim two interim payments each of them equal to 35 % of the price referred to in Article I.4.1 in accordance with Article II.21.6.

The contractor must send an invoice [in paper format] [via *e-PRIOR*]¹ for the interim payment as provided for in the tender specifications, accompanied by the following:

- (a) relevant progress technical implementation report and deliverable result as indicated in section 2.3 and 2.7 of the tender specifications attached in Annex 1
- (b) a list of all *pre-existing rights* to the *results* or parts of the *results* or a declaration stating that there are no such *pre-existing rights* (Annex III must be attached to the invoice), as provided for in Article II.13.4

2. The contracting authority must approve any submitted documents or/and deliverables and pay within 60 days from receipt of the invoice.

3. If the contracting authority has observations to make, it must send them to the contractor (or leader in the case of a joint tender) and suspend the time limit for payment in accordance with Article II.21.7. The contractor (or leader in case of a joint tender) has 30 days to submit additional information or corrections or a new version of the documents if the contracting authority requires it.

2nd interim payment

1. The contractor (or leader in the case of a joint tender) may claim an interim payment equal to 35 % of the price of the relevant contract referred to in Article I.4.1 in accordance with Article II.21.6.

The contractor must send an invoice [in paper format] [via *e-PRIOR*]¹ for the interim payment as provided for in the tender specifications, accompanied by the following:

- (a) relevant progress technical implementation report and deliverable result as indicated in section 2.3 and 2.7 of the tender specifications attached in Annex 1
- (b) a list of all *pre-existing rights* to the *results* or parts of the *results* or a declaration stating that there are no such *pre-existing rights* (Annex III must be attached to the invoice), as provided for in Article II.13.4.

¹ The use of e-invoicing (*e-PRIOR*) or paper format will depend on the choice of the tenderer



2. The contracting authority must approve any submitted documents or/and deliverables and pay within 60 days from receipt of the invoice.

3. If the contracting authority has observations to make, it must send them to the contractor (or leader in the case of a joint tender) and suspend the time limit for payment in accordance with Article II.21.7. The contractor (or leader in case of a joint tender) has 30 days to submit additional information or corrections or a new version of the documents if the contracting authority requires it. 4. The contracting authority must give its approval and pay within the remainder of the time-limit indicated in point (2) unless it rejects partially or fully the submitted documents or deliverables.

I.5.3 Payment of the balance

1. The contractor (or leader in the case of a joint tender) may claim the payment of the balance in accordance with Article II.21.6.

The contractor (or leader in the case of a joint tender) must send an invoice [in paper format] [via e-PRIOR] for payment of the balance due under the contract, as provided for in the tender specifications and accompanied by the following:

- (a) a list of all *pre-existing rights* to the *results* or parts of the *results* or a declaration stating that there are no such *pre-existing rights* (Annex III must be attached to the invoice), as provided for in Article II.13.4;
- (b) relevant final technical implementation report and deliverable result as indicated in section 2.3 and 2.7 of the tender specifications attached in Annex 1

2. The contracting authority must approve the submitted documents or deliverables and pay within 60 days from receipt of the invoice.

3. If the contracting authority has observations to make, it must send them to the contractor (or leader in the case of a joint tender) and suspend the time limit for payment in accordance with Article II.21.7.

The contractor (or leader in the case of a joint tender) has 30 days to submit additional information or corrections or a new version of the documents if the contracting authority requires it.

4. The contracting authority must give its approval and pay within the remainder of the time-limit indicated in point (2.) unless it rejects partially or fully the submitted documents or deliverables.]

[Option: for contractors for which VAT is due in Belgium]

[In Belgium, use of this contract constitutes a request for VAT exemption No 450, Article 42, paragraph 3.3 of the VAT code (circular 2/1978), provided the invoice includes the statement: 'Exonération de la TVA, Article 42, paragraphe 3.3 du code de la TVA (circulaire 2/1978)'.]

[Option: for contractors for which VAT is due in Luxembourg]



[In Luxembourg, the contractor must include the following statement in the invoices: "Commande destinée à l'usage officiel de l'Union européenne. Exonération de la TVA Article 43 § 1 k 2ème tiret de la loi modifiée du 12.02.79. 'In the case of intra-Community purchases, the statement to be included in the invoices is: "For the official use of the European Union. VAT Exemption / European Union/ Article 151 of Council Directive 2006/112/EC.'"]

I.6. GUARANTEES

Guarantees are not applicable to this contract.

I.7. BANK ACCOUNT

Payments must be made to the contractor's (or leaders in the case of a joint tender) bank account denominated in euro, identified as follows:

Name of bank:

Full address of branch:

Exact denomination of account holder:

Full account number including bank codes:

IBAN¹ code:

I.8. COMMUNICATION DETAILS

For the purpose of this contract, communications must be sent to the following addresses:

Contracting authority:

All questions on the contract and reports to be delivered:

European Commission
EUROSTAT
Attention: Ms Claudia JUNKER
Unit ESTAT/A.3
BECH C4/607
Bâtiment Ariane 00/B063 Tri central
Route D'Esch 400
L-2920 Luxembourg
E-mail: Claudia.junker@ec.europa.eu

Invoices (only):

European Commission
EUROSTAT

¹ BIC or SWIFT code for countries with no IBAN code.



Attention: Head of Unit of Financial Management - Unit ESTAT.A4
BECH B4/472
Bâtiment Ariane 00/B063 Tri central
Route D'Esch 400
L-2920 Luxembourg

Contractor (or leader in the case of a joint tender):

Full name

Function

Company name

Full official address

E-mail: (complete)

I.9. DATA CONTROLLER

For the purpose of Article II.9, the data controller is Luc BRIOL Head of Unit of Financial Management - Unit ESTAT.A4.

I.10. EXPLOITATION OF THE RESULTS OF THE CONTRACT

I.10.1 Detailed list of modes of exploitation of the results

In accordance with Article II.13.1 whereby the Union acquires ownership of the *results* as defined in this contract, including the tender specifications, these *results* may be used for any of the following modes of exploitation:

- (a) use for its own purposes:
 - making available to the staff of the contracting authority;
 - making available to the persons and entities working for the contracting authority or cooperating with it, including contractors, subcontractors whether legal or natural persons, Union institutions, agencies and bodies, Member States' institutions.
- (b) inclusion in widely accessible databases or indexes, such as via 'open access' or 'open data' portals, or similar repositories, whether freely accessible or accessible only upon subscription;
- (c) modifications by the contracting authority or by a third party in the name of the contracting authority, including:
 - shortening;
 - summarising;
 - modifying the content;
 - making technical changes to the content (necessary correction of technical errors), adding new parts or functionalities;
 - addition of new elements, paragraphs, titles, leads, bolds, legend, table of content, summary, graphics, subtitles, sound;
 - extracting a part or dividing into parts;
 - translating into different language versions:
all official languages of EU;

languages of candidate countries;

Arabic, Russian.

(d) other adaptations which the parties may later agree; in such case, the following rules apply: the contracting authority must consult the contractor. If necessary, the contractor must in turn seek the agreement of any *creator* or other right holder and must reply to the contracting authority within one month by providing its agreement, including any suggestions of modifications, free of charge. The contractor may refuse the intended modification only if a *creator* can demonstrate that the intended modification may harm his/her honour or reputation, thereby violating his/her moral rights.

I.10.2 Licence or transfer of pre-existing rights

All *pre-existing rights* incorporated in the *results*, if any, are licensed to the Union as set out in Article II.13.2.

By derogation to Article II.13.2, the Union acquires fully and irrevocably all *pre-existing rights* incorporated in the *results*, if any [except for the following rights *[insert exceptions]*].

I.10.3 Provision of list of pre-existing rights and documentary evidence

The contractor must provide the contracting authority with a list of *pre-existing rights* as set out in Article II.13.4 together with the invoice for payment of the balance at the latest.

[In addition, the contractor must provide the contracting authority with relevant and exhaustive evidence of the acquisition of all the necessary *pre-existing rights* together with a presentation of relevant *result*. To this effect, the contractor must provide [a statement in accordance with Annex *[insert reference]*] [the relevant evidence listed in Article II.13.5 as appropriate or, failing that, third parties' statements in accordance with Annex *[insert reference]*].

I.11. TERMINATION BY EITHER PARTY

Either party may, terminate the contract by sending *formal notification* to the other party with one month written notice.

If the contract is terminated:

- (a) neither party is entitled to compensation;
- (b) the contractor is entitled to payment only for the services provided before termination takes effect.

The second, third and fourth paragraphs of Article II.18.4 apply.

I.12. APPLICABLE LAW AND SETTLEMENT OF DISPUTES

I.12.1. The contract is governed by Union law, complemented, where necessary, by the law of Luxembourg.

I.12.2. The courts of Luxembourg have exclusive jurisdiction over any dispute regarding the interpretation, application or validity of the contract.

I.13. SERVICE PROVIDED ON THE PREMISES OF THE CONTRACTING AUTHORITY

1. For the purpose of this article, the following definitions apply:

'Personnel': persons employed directly or indirectly or contracted by the contractor to implement the FWC.

'On-Site Personnel': personnel who is granted access rights to the Contracting Authority premises in Belgium for a short or long term period, when necessary for executing a specific contract.

2. Pursuant to Articles 3, 7 and 8 of Commission Decision (EU, Euratom) 2015/443 of 13.3.2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41), background checks can be carried out on On-Site Personnel in order to prevent and control risks to the security of Commission staff, assets and information. In addition and pursuant to the Belgian Act of 11.12.1998 on classification and security clearances, security certificates and security advices (Belgian Official Gazette of 7.5.1999, p. 15.752), as further amended, access rights for On-Site Personnel to the premises of the Contracting Authority may be conditional on a positive security advice to be delivered by the Belgian authorities.

3. In order to allow the Belgian authorities to give a security advice, the Contractor will submit to the relevant On-Site Personnel the attached form (Notification Document¹). The duly completed and signed Notification Documents (marked "Notification Document") will be returned to the Commission Department of Security (European Commission, HR.DS - BERL 3/190) and an up-to-date electronic list of relevant personal data as listed in the attached template² will be sent to the address "EC-SECURITY-SCREENING@ec.europa.eu" at least 35 days before the start date of a new contract.

4. Failure or refusal to complete the Notification Document may result in refusal of access rights to Commission buildings for the Personnel.

5. The Contracting Authority acknowledges that in exceptional cases it may not be possible for the Contractor to provide at short-term On-Site Personnel having received a positive security advice. Nevertheless the Contractor undertakes to provide at all times only On-Site Personnel having received a positive security advice for the following Commission buildings: Berlaymont, Breydel, Charlemagne, Centre Albert Borschette, Luxembourg 46, Montoyer 59 and Madou. This list can be subject to modification upon request from the Commission Department of Security. In such case, the Contracting Authority will duly notify the Contractor of such modification. The Contracting Authority may terminate the specific contract if the Contractor is unable to provide at all times only On-Site Personnel having received a positive security advice for the listed Commission buildings.

6. If access rights for On-Site Personnel are granted by means of a Commission access card, this card remains the property of the Commission and must be returned to the Service Card Office (Rue Montoyer 34 — 1049 Brussels – MEZ/120 – Monday to Friday 08:30-16:30) upon request, upon expiry or where the access conditions are no longer met and in particular where the On-Site Personnel does not benefit anymore from a positive security advice.

¹ The Notification Document attached contains: full official name and forenames; nationality; national Belgian registry number; place of birth; date of birth; function or occupation; official complete address (including house or flat number and postal code).

² The compulsory template of the electronic list attached to be transferred to the Belgian authorities summarizes the information as provided by the proposed on-site personnel in the Notification Document.



If the Commission access card is not returned, the Contracting Authority may claim liquidated damages of 100 EUR from the Contractor for each day of delay up to a maximum of EUR 1.000. This represents a reasonable estimate of fair compensation for the damage incurred

SIGNATURES

For the contractor,

For the contracting authority,

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

[*forename/surname/position*]

Signature: _____

Signature:_____

Done at [*place*], [*date*]
In duplicate in English.

Done at Luxembourg, [*date*]

II. GENERAL CONDITIONS FOR THE SERVICE CONTRACT

I.14. DEFINITIONS

For the purpose of this contract, the following definitions (indicated in *italics* in the text) apply:

‘Back office’: the internal system(s) used by the parties to process electronic invoices;

‘Confidential information or document’: any information or document received by either party from the other or accessed by either party in the context of the *performance of the contract*, that any of the parties has identified in writing as confidential. It may not include information that is publicly available;

‘Conflict of interest’: a situation where the impartial and objective *performance of the contract* by the contractor is compromised for reasons involving family, emotional life, political or national affinity, economic interest, or any other shared interest with the contracting authority or any third party related to the subject matter of the contract;

‘Creator’: means any natural person who contributes to the production of the *result*;

‘EDI message’ (electronic data interchange): a message created and exchanged through the electronic transfer, from computer to computer, of commercial and administrative data using an agreed standard;

‘e-PRIOR’: the service-oriented communication platform that provides a series of web services and allows the exchange of standardised electronic messages and documents between the parties. This is done either through web services, with a machine-to-machine connection between the parties’ *back office* systems (*EDI messages*), or through a web application (the *supplier portal*). The Platform may be used to exchange electronic documents (e-documents) such as electronic requests for services, electronic specific contracts, and electronic acceptance of services or electronic invoices between the parties. Technical specifications (i.e. the *interface control document*), details on access and user manuals are available at the following website:

http://ec.europa.eu/dgs/informatics/supplier_portal/documentation/documentation_en.htm

‘Force majeure’: any unforeseeable, exceptional situation or event beyond the control of the parties that prevents either of them from fulfilling any of their obligations under the contract. The situation or event must not be attributable to error or negligence on the part of the parties or on the part of the subcontractors and must prove to be inevitable despite their exercising due diligence. Defaults of service, defects in equipment or material or delays in making them available, labour disputes, strikes and financial difficulties may not be invoked as *force majeure*, unless they stem directly from a relevant case of *force majeure*;

‘Formal notification’ (or ‘formally notify’): form of communication between the parties made in writing by mail or email, which provides the sender with compelling evidence that the message was delivered to the specified recipient;

‘Fraud’: any intentional act or omission affecting the Union’s financial interests relating to the use or presentation of false, incorrect or incomplete statements or documents or to non-disclosure of information in violation of a specific obligation;



‘Interface control document’: the guideline document which lays down the technical specifications, message standards, security standards, checks of syntax and semantics, etc. to facilitate machine-to-machine connection. This document is updated on a regular basis;

‘Irregularity’: any infringement of a provision of Union law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the Union’s budget.

‘Notification’ (or ‘notify’): form of communication between the parties made in writing including by electronic means;

‘Performance of the contract’: the execution of tasks and delivery of the purchased services by the contractor to the contracting authority;

‘Personnel’: persons employed directly or indirectly or contracted by the contractor to perform the contract;

‘Pre-existing material’: any material, document, technology or know-how which exists prior to the contractor using it for the production of a *result* in the *performance of the contract*;

‘Pre-existing right’: any industrial and intellectual property right on *pre-existing material*; it may consist in a right of ownership, a licence right and/or right of use belonging to the contractor, the *creator*, the contracting authority as well as to any other third parties;

‘Professional conflicting interest’: a situation in which the contractor’s previous or ongoing professional activities affect its capacity to perform the contract to an appropriate quality standard.

‘Related person’: any person who has the power to represent the contractor or to take decisions on its behalf;

‘Result’: any intended outcome of *the performance of the contract*, whatever its form or nature, which is delivered and finally or partially approved by the contracting authority. A *result* may be further defined in this contract as a deliverable. A *result* may, in addition to materials produced by the contractor or at its request, also include *pre-existing materials*;

‘Substantial error’: any infringement of a contract provision resulting from an act or omission, which causes or might cause a loss to the Union’s budget.

‘Supplier portal’: the *e-PRIOR* portal, which allows the contractor to exchange electronic business documents, such as invoices, through a graphical user interface; its main features can be found in the supplier portal overview document available on: http://ec.europa.eu/dgs/informatics/supplier_portal/doc/um_supplier_portal_overview.pdf

I.15. ROLES AND RESPONSIBILITIES IN THE EVENT OF A JOINT TENDER

In the event of a joint tender submitted by a group of economic operators and where the group does not have legal personality or legal capacity, one member of the group is appointed as leader of the group.

I.16. SEVERABILITY

Each provision of this contract is severable and distinct from the others. If a provision is or becomes illegal, invalid or unenforceable to any extent, it must be severed from the remainder of the contract. This does not affect the legality, validity or enforceability of any other provisions of the contract, which continue in full force and effect. The illegal, invalid or unenforceable provision must be replaced by a legal, valid and enforceable substitute provision which corresponds as closely as possible with the actual intent of the parties under the illegal, invalid or unenforceable provision. The replacement of such a provision must be made in accordance with Article II.11. The contract must be interpreted as if it had contained the substitute provision as from its entry into force.

I.17. PERFORMANCE OF THE CONTRACT

II.4.1 The contractor must provide services of high quality standards, in accordance with the state of the art in the industry and the provisions of this contract, in particular the tender specifications and the terms of its tender.

II.4.2 The contractor must comply with the minimum requirements provided for in the tender specifications. This includes compliance with applicable obligations under environmental, social and labour law established by Union law, national law and collective agreements or by the international environmental, social and labour law provisions listed in Annex X to Directive 2014/24/EU¹.

II.4.3 The contractor must obtain any permit or licence required in the State where the services are to be provided.

II.4.4 All periods specified in the contract are calculated in calendar days, unless otherwise specified.

II.4.5 The contractor must not present itself as a representative of the contracting authority and must inform third parties that it is not part of the European public service.

II.4.6 The contractor is responsible for the *personnel* who carry out the services and exercises its authority over its *personnel* without interference by the contracting authority. The contractor must inform its *personnel* that:

- (a) they may not accept any direct instructions from the contracting authority; and
- (b) their participation in providing the services does not result in any employment or contractual relationship with the contracting authority.

II.4.7 The contractor must ensure that the *personnel* performing the contract and any future replacement *personnel* possess the professional qualifications and experience required to provide the services, as the case may be on the basis of the selection criteria set out in the tender specifications.

II.4.8 At the contracting authority's reasoned request, the contractor must replace any member of *personnel* who:

¹ OJ L 94 of 28.03.2014, p. 65

- (a) does not have the expertise required to provide the services; or
- (b) has caused disruption at the premises of the contracting authority.

The contractor bears the cost of replacing its *personnel* and is responsible for any delay in providing the services resulting from the replacement of *personnel*.

II.4.9 The contractor must record and report to the contracting authority any problem that affects its ability to provide the services. The report must describe the problem, state when it started and what action the contractor is taking to resolve it.

I.18. COMMUNICATION BETWEEN THE PARTIES

III. II.5.1 Form and means of communication

Any communication of information, notices or documents under the contract must:

- (a) be made in writing in paper or electronic format in the language of the contract;
- (b) bear the contract number;
- (c) be made using the relevant communication details set out in Article I.8; and
- (d) be sent by mail, email or, for the documents specified in the special conditions, via *e-PRIOR*.

If a party requests written confirmation of an e-mail within a reasonable time, the other party must provide an original signed paper version of the communication as soon as possible.

The parties agree that any communication made by email has full legal effect and is admissible as evidence in judicial proceedings.

IV. II.5.2 Date of communications by mail and email

Any communication is deemed to have been made when the receiving party receives it, unless this contract refers to the date when the communication was sent.

E-mail is deemed to have been received by the receiving party on the day of dispatch of that e-mail, provided that it is sent to the e-mail address indicated in Article I.8. The sending party must be able to prove the date of dispatch. In the event that the sending party receives a non-delivery report, it must make every effort to ensure that the other party actually receives the communication by email or mail. In such a case, the sending party is not held in breach of its obligation to send such communication within a specified deadline.

Mail sent to the contracting authority is deemed to have been received by the contracting authority on the date on which the department responsible referred to in Article I.8 registers it.

Formal notifications are considered to have been received by the receiving party on the date of receipt indicated in the proof received by the sending party that the message was delivered to the specified recipient.

V. II.5.3 Submission of e-documents via e-PRIOR

If provided for in the special conditions, the exchange of electronic documents (e-documents) such as invoices between the parties is automated through the use of the *e-PRIOR* platform.

This platform provides two possibilities for such exchanges: either through web services (machine-to-machine connection) or through a web application (the *supplier portal*).

The contracting authority takes the necessary measures to implement and maintain electronic systems that enable the *supplier portal* to be used effectively.

In the case of machine-to-machine connection, a direct connection is established between the parties' *back offices*. In this case, the parties take the measures necessary on their side to implement and maintain electronic systems that enable the machine-to-machine connection to be used effectively. The electronic systems are specified in the *interface control document*. The contractor (or leader in the case of a joint tender) must take the necessary technical measures to set up a machine-to-machine connection and at its own cost.

If communication via the *supplier portal* or via the web services (machine-to-machine connection) is hindered by factors beyond the control of one party, it must *notify* the other immediately and the parties must take the necessary measures to restore this communication.

If it is impossible to restore the communication within two working days, one party must *notify* the other that alternative means of communication specified in Article II.5.1 will be used until the *supplier portal* or the machine-to-machine connection is restored.

When a change in the *interface control document* requires adaptations, the contractor (or leader in the case of a joint tender) has up to six months from receipt of the *notification* to implement this change. This period can be shortened by mutual agreement of the parties. This period does not apply to urgent measures required by the security policy of the contracting authority to ensure integrity, confidentiality and non-repudiation of information and the availability of *e-PRIOR*, which must be applied immediately.

VI. II.5.4 Validity and date of e-documents

The parties agree that any e-document, including related attachments exchanged via *e-PRIOR*:

- (a) is considered as equivalent to a paper document;
- (b) is deemed to be the original of the document;
- (c) is legally binding on the parties once an *e-PRIOR* authorised person has performed the 'sign' action in *e-PRIOR* and has full legal effect; and
- (d) constitutes evidence of the information contained in it and is admissible as evidence in judicial proceedings.

The parties expressly waive any rights to contest the validity of such a document solely on the grounds that communications between the parties occurred through *e-PRIOR* or that the document has been signed through *e-PRIOR*. If a direct connection is established between the parties' *back offices* to allow electronic transfer of documents, the parties agree that an e-document, sent as mentioned in the *interface control document*, qualifies as an *EDI message*.

If the e-document is dispatched through the *supplier portal*, it is deemed to have been legally issued or sent when the contractor (or leader in the case of a joint tender) is able to successfully submit the e-document without any error messages. The generated PDF and XML document for the e-document are considered as a proof of receipt by the contracting authority.

In the event that an e-document is dispatched using a direct connection established between the parties' *back offices*, the e-document is deemed to have been legally issued or sent when its status is 'received' as defined in the *interface control document*.

When using the *supplier portal*, the contractor (or leader in the case of a joint tender) can download the PDF or XML message for each e-document for one year after submission. After this period, copies of the e-documents are no longer available for automatic download from the *supplier portal*.

VII. II.5.5 Authorised persons in e-PRIOR

The contractor submits a request for each person who needs to be assigned the role of 'user' in *e-PRIOR*. These persons are identified by means of the European Communication Authentication Service (ECAS) and authorised to access and perform actions in *e-PRIOR* within the permissions of the user roles that the contracting authority has assigned to them.

User roles enabling these *e-PRIOR* authorised persons to sign legally binding documents such as specific tenders or specific contracts are granted only upon submission of supporting documents proving that the authorised person is empowered to act as a legal representative of the contractor.

I.19. LIABILITY

II.6.1 The contracting authority is not liable for any damage or loss caused by the contractor, including any damage or loss to third parties during or as a consequence of *performance of the contract*.

II.6.2 If required by the relevant applicable legislation, the contractor must take out an insurance policy against risks and damage or loss relating to the *performance of the contract*. It must also take out supplementary insurance as reasonably required by standard practice in the industry. Upon request, the contractor must provide evidence of insurance coverage to the contracting authority.

II.6.3 The contractor is liable for any loss or damage caused to the contracting authority during or as a consequence of *performance of the contract*, including in the event of subcontracting, but only up to an amount not exceeding three times the total amount of the contract. However, if the damage or loss is caused by the gross negligence or wilful misconduct of the contractor or of its *personnel* or subcontractors, the contractor is liable for the whole amount of the damage or loss.

II.6.4 If a third party brings any action against the contracting authority in connection with the *performance of the contract*, including any action for alleged breach of intellectual property rights, the contractor must assist the contracting authority in the legal proceedings, including by intervening in support of the contracting authority upon request. If the contracting authority's liability towards the third party is established and that such liability is caused by the contractor during or as a consequence of the *performance of the contract*, Article II.6.3 applies.

II.6.5 If the contractor is composed of two or more economic operators (i.e. who submitted a joint tender), they are all jointly and severally liable to the contracting authority for the *performance of the contract*.

II.6.6 The contracting authority is not liable for any loss or damage caused to the contractor during or as a consequence of *performance of the contract*, unless the loss or damage was caused by wilful misconduct or gross negligence of the contracting authority.

I.20. CONFLICT OF INTEREST AND PROFESSIONAL CONFLICTING INTERESTS

II.7.1 The contractor must take all the necessary measures to prevent any situation of *conflict of interest* or *professional conflicting interest*.

II.7.2 The contractor must *notify* the contracting authority in writing as soon as possible of any situation that could constitute a *conflict of interest* or a *professional conflicting interest* during the *performance of the contract*. The contractor must immediately take action to rectify the situation.

The contracting authority may do any of the following:

- (a) verify that the contractor's action is appropriate;
- (b) require the contractor to take further action within a specified deadline;

II.7.3 The contractor must pass on all the relevant obligations in writing to:

- (a) its *personnel*;
- (b) any natural person with the power to represent it or take decisions on its behalf;
- (c) third parties involved in the *performance of the contract*, including subcontractors.

The contractor must also ensure that the persons referred to above are not placed in a situation which could give rise to conflicts of interest.

I.21. CONFIDENTIALITY

II.8.1 The contracting authority and the contractor must treat with confidentiality any information or documents, in any format, disclosed in writing or orally in relating to the *performance of the contract* and identified in writing as confidential.

II.8.2 Each party must:

- (a) not use *confidential information or documents* for any purpose other than to perform its obligations under the contract without the prior written agreement of the other party;
- (b) ensure the protection of such *confidential information or documents* with the same level of protection as its own *confidential information* and in any case with due diligence;
- (c) not disclose, directly or indirectly, *confidential information or documents* to third parties without the prior written agreement of the other party.

II.8.3 The confidentiality obligation set out in this Article are binding on the contracting authority and the contractor during the *performance of the contract* and for as long as the information or documents remain confidential unless:

- (a) the disclosing party agrees to release the receiving party from the confidentiality obligation earlier;
- (b) the *confidential information or documents* become public through other means than a breach of the confidentiality obligation;
- (c) the applicable law requires the disclosure of the *confidential information or documents*.

II.8.4 The contractor must obtain from any natural person with the power to represent it or take decisions on its behalf, as well as from third parties involved in the *performance of the contract*, a commitment that they will comply with this Article. At the request of the contracting authority, the contractor must provide a document providing evidence of this commitment.

I.22. PROCESSING OF PERSONAL DATA

II.9.1 Any personal data included in the contract must be processed in accordance with Regulation (EC) 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Such data must be processed by the data controller solely for the purposes of the performance, management and monitoring of the contract. This does not affect its possible transmission to bodies entrusted with monitoring or inspection tasks in application of Union law.

II.9.2 The contractor has the right to access its personal data and the right to rectify any such data. The contractor should address any queries concerning the processing of its personal data to the data controller.

II.9.3 The contractor has right of recourse at any time to the European Data Protection Supervisor.

II.9.4 If the contract requires the contractor to process any personal data, the contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data that may be processed, the recipients of the data and the means by which the data subject may exercise its rights

II.9.5 The contractor must grant *personnel* access to the data to the extent strictly necessary for the performance, management and monitoring of the contract.

II.9.6 The contractor must adopt appropriate technical and organisational security measures giving due regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:

- (a) prevent any unauthorised person from gaining access to computer systems processing personal data, and especially:
 - (i) unauthorised reading, copying, alteration or removal of storage media;
 - (ii) unauthorised data inputting, as well as any unauthorised disclosure, alteration or erasure of stored personal data;

- (iii) unauthorised use of data-processing systems by means of data transmission facilities;
- (b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
- (c) record which personal data have been communicated, when and to whom;
- (d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the contracting authority;
- (e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- (f) design its organisational structure in such a way that it meets data protection requirements.

I.23. SUBCONTRACTING

II.10.1 The contractor must not subcontract and have the contract performed by third parties beyond the third parties already mentioned in its tender without prior written authorisation from the contracting authority.

II.10.2 Even if the contracting authority authorises subcontracting, the contractor remains bound by its contractual obligations and is solely responsible for the *performance of this contract*.

II.10.3 The contractor must ensure that the subcontract does not affect the rights of the contracting authority under this contract, particularly those under Articles II.8, II.13 and II.24.

II.10.4 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.

I.24. AMENDMENTS

II.11.1 Any amendment to the contract must be made in writing before all contractual obligations have been fulfilled.

II.11.2 Any amendment must not make changes to the contract that might alter the initial conditions of the procurement procedure or result in unequal treatment of tenderers.

I.25. ASSIGNMENT

II.12.1 The contractor must not assign the rights and obligations arising from the contract, including claims for payments or factoring, without prior written authorisation from the contracting authority. In such cases, the contractor must provide the contracting authority with the identity of the intended assignee.

II.12.2 Any right or obligation assigned by the contractor without authorisation is not enforceable against the contracting authority.

I.26. INTELLECTUAL PROPERTY RIGHTS

VIII. II.13.1 Ownership of the rights in the results

The Union acquires irrevocably worldwide ownership of the *results* and of all intellectual property rights under the contract. The intellectual property rights so acquired include any rights, such as copyright and other intellectual or industrial property rights, to any of the *results* and in all technological solutions and information created or produced by the contractor or by its subcontractor in *performance of the contract*. The contracting authority may exploit and use the acquired rights as stipulated in this contract. The Union acquires all the rights from the moment the contracting authority approves the *results* delivered by the contractor. Such delivery and approval are deemed to constitute an effective assignment of rights from the contractor to the Union.

The payment of the price includes any fees payable to the contractor about the acquisition of ownership of rights by the Union including for all forms of exploitation and of use of the *results*.

IX. II.13.2 Licensing rights on pre-existing materials

Unless provided otherwise in the special conditions, the Union does not acquire ownership of *pre-existing rights* under this contract.

The contractor licenses the *pre-existing rights* on a royalty-free, non-exclusive and irrevocable basis to the Union, which may use the *pre-existing materials* for all the modes of exploitation set out in this contract. All *pre-existing rights* are licensed to the Union from the moment the *results* are delivered and approved by the contracting authority.

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

The payment of the price as set out in the contract is deemed to also include any fees payable to the contractor in relation to the licensing of *pre-existing rights* by the Union, including for all forms of exploitation and of use of the *results*.

Where *performance of the contract* requires that the contractor uses *pre-existing materials* belonging to the contracting authority, the contracting authority may request that the contractor signs an adequate licence agreement. Such use by the contractor will not entail any transfer of rights to the contractor and is limited to the needs of this contract.

X. II.13.3 Exclusive rights

The Union acquires the following exclusive rights:

- (a) reproduction: the right to authorise or prohibit direct or indirect, temporary or permanent reproduction of the *results* by any means (mechanical, digital or other) and in any form, in whole or in part;
- (b) communication to the public: the exclusive right to authorise or prohibit any display, performance or communication to the public, by wire or wireless means, including the making available to the public of the *results* in such a way that members of the public

- may access them from a place and at a time individually chosen by them; this right also includes the communication and broadcasting by cable or by satellite;
- (c) distribution: the exclusive right to authorise or prohibit any form of distribution of *results* or copies of the *results* to the public, by sale or otherwise;
 - (d) rental: the exclusive right to authorise or prohibit rental or lending of the *results* or of copies of the *results*;
 - (e) adaptation: the exclusive right to authorise or prohibit any modification of the *results*;
 - (f) translation: the exclusive right to authorise or prohibit any translation, adaptation, arrangement, creation of derivative works based on the *results*, and any other alteration of the *results*, subject to the respect of moral rights of authors, where applicable;
 - (g) where the *results* are or include a database: the exclusive right to authorise or prohibit the extraction of all or a substantial part of the contents of the database to another medium by any means or in any form; and the exclusive right to authorise or prohibit the re-utilization of all or a substantial part of the contents of the database by the distribution of copies, by renting, by on-line or other forms of transmission;
 - (h) where the *results* are or include a patentable subject-matter: the right to register them as a patent and to further exploit such patent to the fullest extent;
 - (i) where the *results* are or include logos or subject-matter which could be registered as a trademark: the right to register such logo or subject-matter as a trademark and to further exploit and use it;
 - (j) where the *results* are or include know-how: the right to use such know-how as is necessary to make use of the *results* to the full extent provided for by this contract, and the right to make it available to contractors or subcontractors acting on behalf of the contracting authority, subject to their signing of adequate confidentiality undertakings where necessary;
 - (k) where the *results* are documents:
 - (i) the right to authorise the reuse of the documents in conformity with the Commission Decision of 12 December 2011 on the reuse of Commission documents (2011/833/EU), to the extent it is applicable and the documents fall within its scope and are not excluded by any of its provisions; for the sake of this provision, ‘reuse’ and ‘document’ have the meaning given to it by this Decision;
 - (ii) the right to store and archive the *results* in line with the document management rules applicable to the contracting authority, including digitisation or converting the format for preservation or new use purposes;
 - (l) where the *results* are or incorporate software, concerning source code, object code and, where relevant, documentation, preparatory materials and manuals, in addition to the other rights mentioned in this Article:
 - (iii) end-user rights, for all uses as it *results* from this contract and the intention of the parties, both by the Union or by subcontractors acting on behalf of the Union;
 - (iv) the rights to decompile or disassemble the software;
 - (m) to the extent that the contractor may invoke moral rights, the right for the contracting authority, except where otherwise provided in this contract, to publish the *results* with or without mentioning the *creator(s)*’ name(s), and the right to decide when and whether the *results* may be disclosed and published.

The contractor warrants that the exclusive rights and the modes of exploitation may be exercised by the Union on all parts of the *results*, be they created by the contractor or consisting of *pre-existing materials*.

Where *pre-existing materials* are inserted in the *results*, the contracting authority may accept reasonable restrictions impacting on the above list, provided that the said materials are easily identifiable and separable from the rest, that they do not correspond to substantial elements of the *results*, and that, should the need arise, satisfactory replacement solutions exist, at no additional costs to the contracting authority. In such case, the contractor will have to clearly inform the contracting authority before making such choice and the contracting authority has the right to refuse it.

XI. II.13.4 Identification of pre-existing rights

When delivering the *results*, the contractor must warrant that, for any use that the contracting authority may envisage within the limits set in this contract, the *results* and the *pre-existing material* incorporated in the *results* are free of claims from *creators* or from any third parties and all the necessary *pre-existing rights* have been obtained or licensed.

To that effect, the contractor must establish a list of all *pre-existing rights* to the *results* of this contract or parts thereof, including identification of the rights' owners. If there are no *pre-existing rights* to the *results*, the contractor must provide a declaration to that effect. The contractor must provide this list or declaration to the contracting authority together with the invoice for payment of the balance at the latest.

XII. II.13.5 Evidence of granting of pre-existing rights

Upon request by the contracting authority, the contractor must provide evidence that it has the ownership or the right to use all the listed *pre-existing rights*, except for the rights owned or licensed by the Union. The contracting authority may request this evidence even after the end of this contract.

This evidence may refer, for example, to rights to: parts of other documents, images, graphs, fonts, tables, data, software, technical inventions, know-how, IT development tools, routines, subroutines or other programs ('background technology'), concepts, designs, installations or pieces of art, data, source or background materials or any other parts of external origin.

This evidence must include, as appropriate:

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

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

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

XIII. II.13.6 Quotation of works in the result

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

XIV. II.13.7 Moral rights of creators

By delivering the *results*, the contractor warrants that the *creators* will not object to the following on the basis of their moral rights under copyright:

- (a) that their names be mentioned or not mentioned when the *results* are presented to the public;
- (b) that the *results* be divulged or not after they have been delivered in their final version to the contracting authority;
- (c) that the *results* be adapted, provided that this is done in a manner which is not prejudicial to the *creator's* honour or reputation.

If moral rights on parts of the *results* protected by copyright may exist, the contractor must obtain the consent of *creators* regarding the granting or waiver of the relevant moral rights in accordance with the applicable legal provisions and be ready to provide documentary evidence upon request.

XV. II.13.8 Image rights and sound recordings

If natural persons appear in a *result* or their voice or any other private element is recorded in a recognisable manner, the contractor must obtain a statement by these persons (or, in the case of minors, by the persons exercising parental authority) giving their permission for the described use of their image, voice or private element and, on request, submit a copy of the permission to the contracting authority. The contractor must take the necessary measures to obtain such consent in accordance with the applicable legal provisions.

XVI. II.13.9 Copyright notice for pre-existing rights

When the contractor retains *pre-existing rights* on parts of the *results*, reference must be inserted to that effect when the *result* is used as set out in Article I.10.1, with the following disclaimer: ‘© — year — European Union. All rights reserved. Certain parts are licensed under conditions to the EU’, or with any other equivalent disclaimer as the contracting authority may consider best appropriate, or as the parties may agree on a case-by-case basis. This does not apply where inserting such reference would be impossible, notably for practical reasons.

XVII. II.13.10 Visibility of Union funding and disclaimer

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

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

I.27. FORCE MAJEURE

II.14.1 If a party is affected by *force majeure*, it must immediately *notify* the other party, stating the nature of the circumstances, their likely duration and foreseeable effects.

II.14.2 A party is not liable for any delay or failure to perform its obligations under the contract if that delay or failure is a *result* of *force majeure*. If the contractor is unable to fulfil its contractual obligations owing to *force majeure*, it has the right to remuneration only for the services actually provided.

II.14.3 The parties must take all necessary measures to limit any damage due to *force majeure*.

I.28. LIQUIDATED DAMAGES

XVIII. II.15.1 Delay in delivery

If the contractor fails to perform its contractual obligations within the applicable time limits set in this contract, the contracting authority may claim liquidated damages for each day of delay using the following formula:

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

where

V is the price of the relevant purchase or deliverable or *result* or, failing that, the amount specified in Article I.4.1;

d is the duration specified for delivery of the relevant purchase or deliverable or *result* or, failing that, the duration of *performance of the contract* specified in Article I.3.3 expressed in days.

Liquidated damages may be imposed together with a reduction in price under the conditions laid down in Article II.16.

XIX. II.15.2 Procedure

The contracting authority must *formally notify* the contractor of its intention to apply liquidated damages and the corresponding calculated amount.

The contractor has 30 days following the date of receipt to submit observations. Failing that, the decision becomes enforceable the day after the time limit for submitting observations has elapsed.

If the contractor submits observations, the contracting authority, taking into account the relevant observations, must *notify* the contractor:

- (a) of the withdrawal of its intention to apply liquidated damages; or

- (b) of its final decision to apply liquidated damages and the corresponding amount.

XX. II.15.3 Nature of liquidated damages

The parties expressly acknowledge and agree that any amount payable under this Article is not a penalty and represents a reasonable estimate of fair compensation for the damage incurred due to failure to provide the services within the applicable time limits set out in this contract.

XXI. II.15.4 Claims and liability

Any claim for liquidated damages does not affect the contractor's actual or potential liability or the contracting authority's rights under Article II.18.

I.29. REDUCTION IN PRICE

XXII. II.16.1 Quality standards

If the contractor fails to provide the service in accordance with the contract ('unperformed obligations') or if it fails to provide the service in accordance with the expected quality levels specified in the tender specifications ('low quality delivery'), the contracting authority may reduce or recover payments proportionally to the seriousness of the unperformed obligations or low quality delivery. This includes in particular cases where the contracting authority cannot approve a *result*, report or deliverable as defined in Article I.5 after the contractor has submitted the required additional information, correction or new version.

A reduction in price may be imposed together with liquidated damages under the conditions of Article II.15.

XXIII. II.16.2 Procedure

The contracting authority must *formally notify* the contractor of its intention to reduce payment and the corresponding calculated amount.

The contractor has 30 days following the date of receipt to submit observations. Failing that, the decision becomes enforceable the day after the time limit for submitting observations has elapsed.

If the contractor submits observations, the contracting authority, taking into account the relevant observations, must *notify* the contractor:

- (a) of the withdrawal of its intention to reduce payment; or
- (b) of its final decision to reduce payment and the corresponding amount.

XXIV. II.16.3 Claims and liability

Any reduction in price does not affect the contractor's actual or potential liability or the contracting authority's rights under Article II.18.

I.30. SUSPENSION OF THE PERFORMANCE OF THE CONTRACT

XXV. II.17.1 Suspension by the contractor

If the contractor is affected by *force majeure*, it may suspend the *performance of the contract*. The contractor must immediately *notify* the contracting authority of the suspension. The *notification* must include a description of the *force majeure* and state when the contractor expects to resume the *performance of the contract*.

The contractor must *notify* the contracting authority as soon as it is able to resume *performance of the contract*, unless the contracting authority has already terminated the contract.

XXVI. II.17.2 Suspension by the contracting authority

The contracting authority may suspend the *performance of the contract* or any part of it:

- (a) if the procedure for awarding the contract or the *performance of the contract* proves to have been subject to *substantial errors, irregularities or fraud*;
- (b) in order to verify whether the presumed *substantial errors, irregularities or fraud* actually occurred.

The contracting authority must *formally notify* the contractor of the suspension. Suspension takes effect on the day of *formal notification*, or at a later date if the *formal notification* so provides.

The contracting authority must *notify* the contractor as soon as possible whether:

- (a) it is lifting the suspension; or
- (b) it intends to terminate the contract under Article II.18.1(f) or (j).

The contractor is not entitled to compensation for suspension of any part of the contract.

I.31. TERMINATION OF THE CONTRACT

XXVII. II.18.1 Grounds for termination by the contracting authority

The contracting authority may terminate the contract in the following circumstances:

- (a) if provision of the services under the contract has not actually started within 15 days of the scheduled date and the contracting authority considers the new date proposed, if any, unacceptable, taking into account Article II.11.2;
- (b) if the contractor is unable, through its own fault, to obtain any permit or licence required for *performance of the contract*;
- (c) if the contractor does not perform the contract in accordance with the tender specifications or is in breach of another substantial contractual obligation.

- (d) if the contractor or any person that assumes unlimited liability for the debts of the contractor is in one of the situations provided for in points (a) and (b) of Article 106(1) of the Financial Regulation¹;
- (e) if the contractor or any *related person* is subject to any of the situations provided for in points (c) to (f) of Article 106(1) or to Article 106(2) of the Financial Regulation.
- (f) if the procedure for awarding the contract or the *performance of the contract* prove to have been subject to *substantial errors, irregularities or fraud*;
- (g) if the contractor does not comply with applicable obligations under environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to Directive 2014/24/EU;
- (h) if the contractor is in a situation that could constitute a *conflict of interest* or a *professional conflicting interest* as referred to in Article II.7;
- (i) if a change to the contractor's legal, financial, technical, organisational or ownership situation is likely to substantially affect the *performance of the contract* or substantially modify the conditions under which the contract was initially awarded;
- (j) in the event of *force majeure*, where either resuming implementation is impossible or the necessary ensuing amendments to the contract would mean that the tender specifications are no longer fulfilled or result in unequal treatment of tenderers or contractors;

XXVIII. II.18.2 Grounds for termination by the contractor

The contractor may terminate the contract if:

- (a) it has evidence that the contracting authority has committed *substantial errors, irregularities or fraud* in the procedure for awarding the contract or the *performance of the contract*;
- (b) the contracting authority fails to comply with its obligations, in particular the obligation to provide the information needed for the contractor to perform the contract as provided for in the tender specifications.

XXIX. II.18.3 Procedure for termination

A party must *formally notify* the other party of its intention to terminate the contract and the grounds for termination.

The other party has 30 days following the date of receipt to submit observations, including the measures it has taken to continue fulfilling its contractual obligations. Failing that, the decision to terminate becomes enforceable the day after the time limit for submitting observations has elapsed.

If the other party submits observations, the party intending to terminate must *formally notify* it either of the withdrawal of its intention to terminate or of its final decision to terminate.

In the cases referred to in points (a) to (d) and (g) to (i) of Article II.18.1 and in Article II.18.2, the date on which the termination takes effect must be specified in the *formal notification*.

¹ Regulation (EU, EURATOM) No 966/2012 on the financial rules applicable to the general budget of the Union, as amended <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32012R0966>

In the cases referred to in points (e), (f) and (j) of Article II.18.1, the termination takes effect on the day following the date on which the contractor receives *notification* of termination.

In addition, at the request of the contracting authority and regardless of the grounds for termination, the contractor must provide all necessary assistance, including information, documents and files, to allow the contracting authority to complete, continue or transfer the services to a new contractor or internally, without interruption or adverse effect on the quality or continuity of the services. The parties may agree to draw up a transition plan detailing the contractor's assistance unless such plan is already detailed in other contractual documents or in the tender specifications. The contractor must provide such assistance at no additional cost, except if it can demonstrate that it requires substantial additional resources or means, in which case it must provide an estimate of the costs involved and the parties will negotiate an arrangement in good faith.

XXX. II.18.4 Effects of termination

The contractor is liable for damage incurred by the contracting authority as a result of the termination of the contract including the cost of appointing another contractor to provide or complete the services, unless the damage was caused by the situation specified in Article II.18.1 (j) or in Article II.18.2. The contracting authority may claim compensation for such damage.

The contractor is not entitled to compensation for any loss resulting from the termination of the contract, including loss of anticipated profits, unless the loss was caused by the situation specified in Article II.18.2.

The contractor must take all appropriate measures to minimise costs, prevent damage and cancel or reduce its commitments.

Within 60 days of the date of termination, the contractor must submit any report, deliverable or *result* and any invoice required for services that were provided before the date of termination.

In the case of joint tenders, the contracting authority may terminate the contract with each member of the group separately on the basis of points (d), (e) or (g) of Article II.18.1, under the conditions set out in Article II.11.2.

I.32. INVOICES, VALUE ADDED TAX AND E-INVOICING

XXXI. II.19.1 Invoices and value added tax

Invoices must contain the contractor's (or leader's in the case of a joint tender) identification data, the amount, the currency and the date, as well as the contract reference.

Invoices must indicate the place of taxation of the contractor (or leader in the case of a joint tender) for value added tax (VAT) purposes and must specify separately amounts not including VAT and amounts including VAT.

The contracting authority is exempt from all taxes and duties, including VAT, in accordance with Articles 3 and 4 of the Protocol on the privileges and immunities of the European Union.



The contractor (or leader in the case of a joint tender) must complete the necessary formalities with the relevant authorities to ensure that the supplies and services required for *performance of the contract* are exempt from taxes and duties, including VAT.

XXXII. II.19.2 E-invoicing

If provided for in the special conditions, the contractor (or leader in the case of a joint tender) submits invoices in electronic format if the conditions regarding electronic signature specified by Directive 2006/112/EC on VAT are fulfilled, i.e. using a qualified electronic signature or through electronic data interchange.

Reception of invoices by standard format (pdf) or email is not accepted.

I.33. PRICE REVISION

If a price revision index is provided in Article I.4.2, this Article applies to it.

Prices are fixed and not subject to revision during the first year of the contract.

At the beginning of the second and every following year of the contract, each price may be revised upwards or downwards at the request of one of the parties.

A party may request a price revision in writing no later than three months before the anniversary date of entry into force of the contract. The other party must acknowledge the request within 14 days of receipt.

At the anniversary date, the contracting authority must communicate the final index for the month in which the request was received, or failing that, the last provisional index available for that month. The contractor establishes the new price on this basis and communicates it as soon as possible to the contracting authority for verification.

The price revision is calculated using the following formula:

$$Pr = Po \times \left(\frac{Ir}{Io} \right)$$

where: Pr = revised price;
Po = price in the tender;
Io = index for the month in which the contract enters into force;
Ir = index for the month in which the request to revise prices is received.

I.34. PAYMENTS AND GUARANTEES

XXXIII. II.21.1 Date of payment

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

XXXIV. II.21.2 Currency

Payments are made in euros or in the currency provided for in Article I.7.

XXXV. II.21.3 Conversion

The contracting authority makes any conversion between the euro and another currency at the daily euro exchange rate published in the Official Journal of the European Union, or failing that, at the monthly accounting exchange rate, as established by the European Commission and published on the website indicated below, applicable on the day when it issues the payment order.

The contractor makes any conversion between the euro and another currency at the monthly accounting exchange rate, established by the Commission and published on the website indicated below, applicable on the date of the invoice.

http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm

XXXVI. II.21.4 Costs of transfer

The costs of the transfer are borne as follows:

- (a) the contracting authority bears the costs of dispatch charged by its bank;
- (b) the contractor bears the costs of receipt charged by its bank;
- (c) the party causing repetition of the transfer bears the costs for repeated transfer.

XXXVII. II.21.5 Pre-financing, performance and money retention guarantees

If, as provided for in Articles I.5 or I.6, a financial guarantee is required for the payment of pre-financing, as performance guarantee or as retention money guarantee, it must fulfil the following conditions:

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

The contractor bears the cost of providing such guarantee.

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

Performance guarantees cover compliance with substantial contractual obligations until the contracting authority has given its final approval for the service. The performance guarantee must not exceed 10 % of the total price of the contract. The contracting authority must release the guarantee fully after final approval of the service, as provided for in the contract.

Retention money guarantees cover full delivery of the service in accordance with the contract including during the contract liability period and until its final approval by the contracting authority. The retention money guarantee must not exceed 10 % of the total price of the



contract. The contracting authority must release the guarantee after the expiry of the contract liability period as provided for in the contract.

The contracting authority must not request a retention money guarantee where it has requested a performance guarantee.

XXXVIII. II.21.6 Interim payments and payment of the balance

The contractor (or leader in the case of a joint tender) must send an invoice for interim payment, as provided for in Article I.5 or in the tender specifications.

The contractor (or leader in the case of a joint tender) must send an invoice for payment of the balance within 60 days of the end of the period of provision of the services, as provided for in Article I.5 or in the tender specifications.

Payment of the invoice and approval of documents does not imply recognition of the regularity, authenticity, completeness and correctness of the declarations and information they contain.

Payment of the balance may take the form of recovery.

XXXIX. II.21.7 Suspension of the time allowed for payment

The contracting authority may suspend the payment periods specified in Article I.5 at any time by *notifying* the contractor (or leader in the case of a joint tender) that its invoice cannot be processed. The reasons the contracting authority may cite for not being able to process an invoice are:

- (a) because it does not comply with the contract;
- (b) because the contractor has not produced the appropriate documents or deliverables; or
- (c) because the contracting authority has observations on the documents or deliverables submitted with the invoice.

The contracting authority must *notify* the contractor (or leader in the case of joint tender) as soon as possible of any such suspension, giving the reasons for it.

Suspension takes effect on the date the contracting authority sends the *notification*. The remaining payment period resumes from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, is carried out. Where the suspension period exceeds two months, the contractor (or leader in the case of a joint tender) may request the contracting authority to justify the continued suspension.

Where the payment periods have been suspended following rejection of a document referred to in the first paragraph of this Article and the new document produced is also rejected, the contracting authority reserves the right to terminate the contract in accordance with Article II.18.1(c).

XL. II.21.8 Interest on late payment

On expiry of the payment periods specified in Article I.5, the contractor (or leader in the case of a joint tender) is entitled to interest on late payment at the rate applied by the European Central Bank for its main refinancing operations in euros (the reference rate) plus eight points. The reference rate is the rate in force, as published in the C series of the *Official Journal of the European Union*, on the first day of the month in which the payment period ends.

Suspension of the payment period as provided for in Article II.21.7 is not considered as giving rise to late payment.

Interest on late payment covers the period running from the day following the due date for payment up to and including the date of payment as defined in Article II.21.1.

However, when the calculated interest is EUR 200 or less, it must be paid to the contractor (or leader in the case of a joint tender) only if it requests it within two months of receiving late payment.

I.35. REIMBURSEMENTS

II.22.1 If provided for in the special conditions or in the tender specifications, the contracting authority must reimburse expenses directly connected with the provision of the services either when the contractor provides it with supporting documents or on the basis of flat rates.

II.22.2 The contracting authority reimburses travel and subsistence expenses on the basis of the shortest itinerary and the minimum number of nights necessary for overnight stay at the destination.

II.22.3 The contracting authority reimburses travel expenses as follows:

- (a) travel by air: up to the maximum cost of an economy class ticket at the time of the reservation;
- (b) travel by boat or rail: up to the maximum cost of a first class ticket;
- (c) travel by car: at the rate of one first class rail ticket for the same journey and on the same day;

In addition, the contracting authority reimburses travel outside Union territory if it has given its prior written approval for the expenses.

II.22.4 The contracting authority reimburses subsistence expenses on the basis of a daily subsistence allowance as follows:

- (a) for journeys of less than 200 km for a return trip, no subsistence allowance is payable;
- (b) the daily subsistence allowance is payable only on receipt of supporting documents proving that the person concerned was present at the destination;
- (c) the daily subsistence allowance takes the form of a flat-rate payment to cover all subsistence expenses, including meals, local transport including transport to and from the airport or station, insurance and sundries;

- (d) the daily subsistence allowance is reimbursed at the flat rates specified in Article I.4.3;
- (e) accommodation is reimbursed on receipt of supporting documents proving the necessary overnight stay at the destination, up to the flat-rate ceilings specified in Article I.4.3.

II.22.5 The contracting authority reimburses the cost of shipment of equipment or unaccompanied luggage if it has given prior written approval for the expense.

I.36. RECOVERY

II.23.1 If an amount is to be recovered under the terms of the contract, the contractor must repay the contracting authority the amount in question.

XLI. II.23.2 Recovery procedure

Before recovery, the contracting authority must *formally notify* the contractor of its intention to recover the amount it claims, specifying the amount due and the reasons for recovery and inviting the contractor to make any observations within 30 days of receipt.

If no observations have been submitted or if, despite the observations submitted, the contracting authority decides to pursue the recovery procedure, it must confirm recovery by *formally notifying* a debit note to the contractor, specifying the date of payment. The contractor must pay in accordance with the provisions specified in the debit note.

If the contractor does not pay by the due date, the contracting authority may, after informing the contractor in writing, recover the amounts due:

- (a) by offsetting them against any amounts owed to the contractor by the Union or by the European Atomic Energy Community;
- (b) by calling in a financial guarantee if the contractor has submitted one to the contracting authority;
- (c) by taking legal action.

XLII. II.23.3 Interest on late payment

If the contractor does not honour the obligation to pay the amount due by the date set by the contracting authority in the debit note, the amount due bears interest at the rate indicated in Article II.21.8. Interest on late payments will cover the period starting on the day after the due date for payment and ending on the date when the contracting authority receives the full amount owed.

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

XLIII. II.23.4 Recovery rules in the case of joint tender

If the contract is signed by a group (joint tender), the group is jointly and severally liable under the conditions set out in Article II.6 (liability). The contracting authority first claims the full amount to the leader of the group.

If the leader does not pay by the due date and if the amount cannot be offset in accordance with Article II.23.2 (a), the contracting authority may claim the full amount to any other



member of the group by *notifying* the debit note already sent to the leader under Article II.23.2.

I.37. CHECKS AND AUDITS

II.24.1 The contracting authority and the European Anti-Fraud Office may check or require an audit on the *performance of the contract*. This may be carried out either by OLAF's own staff or by any other outside body authorised to do so on their behalf.

Such checks and audits may be initiated at any moment during the *performance of the contract* and up to five years starting from the payment of the balance.

The audit procedure is initiated on the date of receipt of the relevant letter sent by the contracting authority. Audits are carried out on a confidential basis.

II.24.2 The contractor must keep all original documents stored on any appropriate medium, including digitised originals if authorised under national law, for a period of five years starting from the payment of the balance.

II.24.3 The contractor must grant the contracting authority's staff and outside *personnel* authorised by the contracting authority the appropriate right of access to sites and premises where the contract is performed and to all the information, including information in electronic format, needed to conduct such checks and audits. The contractor must ensure that the information is readily available at the moment of the check or audit and, if so requested, that information is handed over in an appropriate form.

II.24.4 On the basis of the findings made during the audit, a provisional report is drawn up. The contracting authority or its authorised representative must send it to the contractor, who has 30 days following the date of receipt to submit observations. The contractor must receive the final report within 60 days following the expiry of that deadline to submit observations.

On the basis of the final audit findings, the contracting authority may recover all or part of the payments made in accordance with Article II.23 and may take any other measure which it considers necessary.

II.24.5 In accordance with Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspection carried out by the Commission in order to protect the European Communities' financial interests against *fraud* and other *irregularities* and Regulation (EC) No 883/2013 of the European Parliament and the Council of 11 September 2013 concerning investigation conducted by the European Anti-Fraud Office, the European Anti-Fraud Office may carry out investigations, including on-the-spot checks and inspections, to establish whether there has been *fraud*, corruption or any other illegal activity under the contract affecting the financial interests of the Union. Findings arising from an investigation may lead to criminal prosecution under national law.

The investigations may be carried out at any moment during the provision of the services and up to five years starting from the payment of the balance.

II.24.6 The Court of Auditors has the same rights as the contracting authority, particularly right of access, for the purpose of checks and audits.



Annex I – Tender specifications

Annex II – Contractor's tender

Annex III – Declaration on the list of pre-existing rights

Annex IV – Power of Attorney

Annex V – Commitment on statistical confidentiality



ANNEX I- TENDER SPECIFICATIONS

The contractor will provide services concerning **Provision of a training programme for the ENP-South countries** as defined in the technical specifications of Tender specifications ESTAT/A/2017/006 available on e-Tendering website:

<https://etendering.ted.europa.eu/cft/cft-display.html?cftId=2444>



ANNEX II - CONTRACTOR'S TENDER

Reference: contractor's tender N° **xxx** of **XX/XX/XXXX (date)**.

**ANNEX III– DECLARATION ON THE LIST OF PRE-EXISTING RIGHTS**

I, [insert name of the authorised representative of the contractor] representing [insert name of the contractor] ('the contractor'), party to the [framework] [specific] contract [insert title and number]

option 1: warrant that the results are free of rights or claims from creators or from any third parties for any use the contracting authority may envisage and declare that the results do not contain any pre-existing rights to the results or parts of the results or to pre-existing materials as defined in the above-mentioned contract.

option 2: warrant that the results and the pre-existing material incorporated in the results are free of rights or claims from creators or from any third parties for any use the contracting authority may envisage and declare that the results contain the following pre-existing rights:

Please fill in the table – one line per pre-existing right

Result concerned	Pre-existing material concerned	Rights to pre-existing material	Identification of rights' holder

Date, place, signature



ANNEX IV – POWER OF ATTORNEY

**ANNEX V – COMMITMENT ON STATISTICAL CONFIDENTIALITY****Commitment on statistical confidentiality for staff of companies which have concluded a contract for the provision of services with Eurostat**

It is explicitly stated in Article 22(1) of Regulation (EC) No 223/2009 on European Statistics that “[c]onfidential data shall be accessible ... only to officials of the Commission (Eurostat) within their specific domain of work”. Eurostat officials are bound to respect statistical confidentiality, as laid down in this Regulation, without any further formalities. They are explicitly informed of their obligations. Other staff of Eurostat and other natural persons working for Eurostat are required to sign a commitment on statistical confidentiality in order to have access to confidential data.

This commitment should also be signed by the staff of companies which have concluded a contract for the provision of services with the Commission, the objective being to highlight the importance of statistical confidentiality and the consequences of violations. This requirement forms part of the measures to protect such data which must be taken by the Commission in accordance with the above-mentioned Regulation.

So, in the presence of Mr/Ms..... (for the company), Mr/Ms, employed/contracted by the company....., with access to confidential statistical data at Eurostat since..... in the course of providing services covered by a contract concluded between that company and the Commission, undertakes to respect statistical confidentiality.

He/she has been informed of Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics (OJ L 87, 31.3.2009, p.164). In particular, he/she has been informed that it is forbidden to use confidential statistical data for purposes other than the tasks expressly set out in the contract for the provision of services concluded between the company and the Commission.

He/she is forbidden to process, disseminate or otherwise make available or use these data in any way whatsoever. These obligations remain in force after the termination of his/her employment.

He/she has further been informed that the protection of confidential data within Eurostat has the highest priority which means that any violation of statistical confidentiality will be subject to proceedings by the judicial authorities concerned, which could, where appropriate, also include criminal penalties under the applicable national law.

He/she hereby declares that he/she is fully informed of the implications of statistical confidentiality. He/she acknowledges having received a copy of this commitment. He/she also acknowledges being aware that this commitment shall be presented to the Head of the Legal Unit at Eurostat for visa, before access to confidential data will be given, and that he/she will at this moment be informed that an electronic version of the Manual on the protection of confidential data in Eurostat is available on the Eurostat IT security website <https://myintracomm.ec.europa.eu/dg/ESTAT/Security/Pages/Handbook-on-protection-of-Confidential-Data.aspx/>.

Read and approved.

Luxembourg,

.....
Signature of the person undertaking the commitment

.....
Signature of the company representative

The original version of this form must be sent to the following address:

European Commission - EUROSTAT
Attention: Mr/Ms Head of Unit
Unit (complete)
Bâtiment Ariane 00/B063 Tri central
Route D'Esch 400
L-2920 Luxembourg
E-mail: (insert e-mail or functional mailbox)

Annex 10 - List of documents to be submitted

Description	Section	Single or Main contractor	Sub-contractor	Coordinator or group leader in joint offer	All partners in joint offer
Administrative information form Annex 1	4.4.1	■		■	■
Legal Entity form Annex 2	4.4.1	■	■	■	■
Financial identification form Annex 3	4.4.1	■		■	
Questionnaire for joint offers and/or subcontracting Annex 4	4.4.1	■	■	■	■
Letter of availability of a proposed subcontractor(s) Annex 5	4.4.1	■	■	■	■
A letter signed by each member of the group of economic operators giving the authorisation to the lead partner to submit the tender on its behalf. (free format)	4.4.1				■
Power of attorney (to be provided <u>only on request</u>) Annex 6	4.4.1			■	■
Declaration on honour (exclusion and selection) Annex 7	4.4.2	■	■	■	■
Evidence concerning Grounds for exclusion (to be provided <u>only on request for successful tenderer</u>)	4.4	■	■	■	■
Full set of annual accounts (balance sheet, profit and loss account and notes on the accounts) for the past two years (following the instruction laid down in a paragraph 4.4.3)	4.4.3	■		■	■
Evidence of the educational and professional qualifications (following the instruction laid down in a paragraph 4.4.3)	4.4.3	■	■	■	■
List of the principal services provided in the past three years (following the instruction laid down in a paragraph 4.4.3)	4.4.3	■	■	■	■
Any relevant evidence proving the requirements of the selection criteria (following the instruction laid down in a paragraph 4.4.3)	4.4.3	■	■	■	■
Compulsory reply form for financial offer Annex 8	4.4.5	■		■	