Ref. Ares(2015)1305058 - 25/03/2015

EUROPEAN UNION

DELEGATION TO CHINA AND MONGOLIA

INVITATION TO TENDER

CHNP201545

Catering Service for Europe Day Reception on 6th May 2015

EUROPEAN UNION

DELEGATION TO CHINA AND MONGOLIA

TABLE OF CONTENTS

INVITATION TO TENDER 3

ANNEX I – TENDER SPECIFICATION 6

1. INTRODUCTION 6

2. BACKGROUND 6

3. SUBJECT OF THE CONTRACT 6

4. PLACE OF PERFORMANCE 6

5. TECHNICAL SPECIFICATIONS AND STANDARDS 6

ANNEX II PRICE SHEET 10

ANNEX III ALTERNATIVE MENUS 11

ANNEX IV TYPE OF STAFF AND SERVICE 12

ANNEX V 13

DECLARATION OF HONOUR 13

ANNEX VI LEF AND BAF 15

ANNEX VII DRAFT CONTRACT 16

EUROPEAN UNION

DELEGATION TO CHINA AND MONGOLIA

Invitation to Tender

Dear Sir/Madam,

Subject: - Catering Service for Europe Day Reception on 6th May 2015
Ref: - CHNP201545

1. The European External Action Service (EEAS), represented by the Head of the Delegation to China, is planning to award the direct contract referred to above. Please find enclosed the related tender specification listing all the documents that must be produced in order to submit a tender, and the draft contract.

2. If you are interested in this contract, you should submit a tender in one of the official languages of the European Union.

3. Tenders shall be submitted by electronic mail no later than 07/04/2015 to DELEGATION-CHINA-TENDERS@eeas.europa.eu, The subject of the email will be "**CHNP201545 - Catering Service for Europe Day Reception on 6th May 2015 ".**

4. Tenders must be:
   - signed by a duly authorised representative of the tenderer;
   - perfectly legible so that there can be no doubt as to words and figures;
   - drawn up using the model reply forms in the tender specification.

5. The period of validity of the tender, during which tenderers may not modify the terms of their tenders in any respect, is 3 months from the final date for submission.

6. Submission of a tender implies acceptance of all the terms and conditions set out in this invitation to tender, in the tender specification and in the draft contract and, where appropriate, waiver of the tenderer's own general or specific terms and conditions. Submission of a tender is binding on the tenderer to whom the contract is awarded for the duration of the contract.

7. All costs incurred during the preparation and submissions of tenders are to be borne by the tenderers and will not be reimbursed.

8. Contacts between the contracting authority and tenderers are prohibited throughout the procedure save in exceptional circumstances and under the following conditions only:

   - Before the final date for submission of tenders:

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

  Any requests for additional information must be made in writing only to DELEGATION-CHINA-TENDERS@eeas.europa.eu.

  Requests for additional information received less than five working days before the final date for submission of tenders will not be processed.

* The contracting authority may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other clerical error in the text of the call for tenders.

* Any additional information including that referred to above will be sent simultaneously to all candidates invited to tender.

- After the opening of tenders

* If clarification is required or if obvious clerical errors in the tender need to be corrected, the contracting authority may contact the tenderer provided the terms of the tender are not modified as a result.

* The contracting authority may negotiate with tenderers the tenders they have submitted, in order to adapt them to the requirements set out in the contract notice, tender specifications or any additional document and in order to find the tender offering best value for money. During negotiations equal treatment of all tenderers will be ensured.

9. This invitation to tender is in no way binding on the contracting authority. The contracting authority's contractual obligation commences only upon signature of the contract with the successful tenderer.

10. Up to the point of signature, the contracting authority may either abandon the procurement or cancel the award procedure, without the candidates or tenderers being entitled to claim any compensation. This decision must be substantiated and the candidates or tenderers notified.

11. Once the contracting authority has opened the tender, the document shall become its property and it shall be treated confidentially.

12. You will be informed of the outcome of this procurement procedure by e-mail. It is your responsibility to provide a valid e-mail address together with your contact details in your tender and to check it regularly.

13. If processing your reply to the invitation to tender involves the recording and processing of personal data (such as your name, address and CV), such data will be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Unless indicated otherwise, your replies to the questions and any personal data requested are required to evaluate your tender in accordance with the specifications of the invitation to tender and will be processed solely for that purpose by the Head of EU Delegation to China. Details concerning the processing of your personal data are available on the privacy statement at: http://ec.europa.eu/dataprotectionofficer/privacystatement_publicprocurement_en.pdf

14. Your personal data may be registered in the Early Warning System (EWS) only or both in the EWS and Central Exclusion Database (CED) by the Accounting Officer of the EEAS, should you be in one of the situations mentioned in:

- the Commission Decision 2008/969 of 16.12.2008 on the Early Warning System (for more information see the Privacy Statement on http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm),

or

- the Commission Regulation 1302/2008 of 17.12.2008 on the Central Exclusion Database (for more information see the Privacy Statement on http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm#BDCE)

Hans Dietmar Schweisgut
Authorizing Officer

EUROPEAN UNION

DELEGATION TO CHINA AND MONGOLIA

Annex I – Tender Specification

Catering Service for Europe Day Reception on 6th May 2015

1. Introduction

The Delegation of European Union to China is planning to organise an event on the 6th of May 2015 for the celebration of Europe Day.

2. Background

The object of the invitation to tender is the conclusion of a service contract for the catering for Europe Day event on the 6th of May 2015.

3. Subject of the contract

Event schedule: 6th of May 2014, 17.00 - 21.00 (3 - 5 hours)
Estimated number of guests: 1,000

4. Place of performance

The successful tenderer should be able to provide catering service at the Delegation's premises located at: No 15 Dong Zhi Men Wai Da Jie, Chaoyang District, Beijing

5. Technical specifications and standards

5.1 Food: The food shall feature European food from different EU countries.

At least three detailed alternative menus to be proposed by the tenderer - a selection of hot and cold dishes: meat, vegetables, fruits and desserts, including ice cream. The menus included in the tender are subject to approval and revision of the Delegation.

5.2 Drinks: Draft Beer (European brand) and soft drinks. Other drinks will be provided by the Delegation.

5.3 Service:

- Number of waiters (Sufficient waiter service for 1,000 guests) to be suggested by the contractor;
- The waiters must be very professional and very well dressed;
- Delivery, set up and any other costs and fees shall all be included in the quotation.

5.4 Other:
The amount of the following items to be provided by the tenderer shall be sufficient for the catering of a cocktail reception for 1,000 guests.

- Proper cutlery (indicative amount – 2,500 plus): plates, forks, paper towels etc;
- Soft drink glasses (indicative amount – 4,500 plus);
- Beer glasses (indicative amount – 1,000 plus);
- Red wine glasses (indicative amount – 1,000 plus);
- White wine glasses (indicative amount – 1,000 plus);
- Ice cubes & containers for drinks and to cool the white wine bottles;
- Other relevant service
- The caterer of this tender shall co-operate with the other service providers nominated by the Delegation.

5.5 On-site team leader

The successful tenderer shall nominate one Team Leader who will be responsible for organizing the staff from the company at the Delegation's premises.

The Team Leader and the catering team shall have an on-site meeting with the Delegation after the award of the contract to decide the overall arrangement and the details.

The required crew shall be available at the Delegation's premises minimum 3 hours before the beginning of the cocktail reception.

6. Presentation of the tender

6.1 Content of the tender

6.1.1 A price sheet, indicating the rate per person and the total cost for the service (Annex II), duly completed, stamped and dated;

6.1.2 Detailed alternative menus (Annex III), including:

- proposals for hot and cold dishes & desserts;
- brand of the European draft beer and soft drinks;
- the quantity of the dishes and the drinks.

6.1.3 Type of staff and service (Annex IV) to be completed:

- type (managers, waiters, chefs etc) and detailed number of staff, per category, to arrange the event;
- the list of similar events held in 2014 or 2015.

6.1.4 A declaration on honour on the exclusion criteria and absence of conflict of interest (Annex V), duly signed and dated;

6.1.5 Legal Entity File (LEF) and Financial Identification File (BAF) (Annex VI), duly completed and signed.

Please note **only the successful tenderer** is obliged to provide the above mentioned two forms accompanied by the relevant supporting documents, if it is not yet registered in the Delegation's database.

6.2 Submission of a tender implies that the tenderer:

- Accepts all the terms and conditions governing the contract at annex to the invitation letter;
- Waives its own terms and conditions.

6.3 Period of validity of the tender:

- 3 months from the deadline for the submission of tenders

7. Price

Price for the above mentioned services must be:

- Denominated in CNY and be firm and not subject to revision;
- All-inclusive.

8. Evaluation of tenders

The contract will be awarded to the tender offering the best value for money.

8.1 Evaluation of award criteria

The award criteria are set out in the table below. They will be evaluated on the basis of documents provided in the technical offer and each is assigned a mark by the evaluation committee on the basis of the scale in the table.

Award Criteria

No	Criteria/Subcriteria	Max. Number Points	Description
1	- Quality of the menu proposal	**60**	The tenderer shall make proposals according to point 5.1 & 5.2. The dishes proposed shall be appropriate to the style and level of the event.
2	- Quality of the service	**25**	The tenderer shall provide *a)* information on how it plans to serve the event, e.g. the number of manager, waiter, chef and so on, and *b)* a list of similar events it catered for during 2014 and 2015.
3	- Quantity of the food and beer	**15**	The tender shall describe the amount of the food and drinks to be provided.
	TOTAL	**100**	

The technical score for each tender will be calculated as follows:

Ti = score for offer under consideration/score for best technical offer *100

The best technical offer will thus score 100.

8.2 Evaluation of the financial offer

The financial offers are compared on the basis of the **total price** of each tender as in Annex II.

They will be checked for arithmetical accuracy and corrections will be made where necessary.

The financial score for each offer will be calculated as follows:

Fi = price of the best financial offer (lowest price)/price of the offer under consideration * 100

The best financial offer will thus score 100.

8.3 Calculation of the overall score

The offer chosen will be that which offers the best value for money, namely the offer obtaining the best overall score Pi which is calculated as follows:

Pi = 0.6*Ti + 0.4*Fi

where
Pi is the total score for the tender in question (out of 100)
Ti is the number of points (between 0 and 100) obtained in the technical evaluation
Fi is the number of points (between 0 and 100) obtained in the financial evaluation.

Annex II Price sheet

Date	Function	Venue	Exp Att	*A.1* Food menu *(5.1 of the tender specification)* *(CNY net per person)*	*A.2* Drinks *(5.2 of the tender specification)* *(CNY net per person)*	*A.3* Service *(5.3 & 5.4 of the tender specification)* *(CNY net per person)*	Package price *(Sum of A.1 & A.2 & A.3 of this table)* *(CNY net per person)*	*Whole* package price *(CNY net for all 1,000 guests)*
6th May 2015	A reception	Outside Catering at the premises of the Delegation	1,000					

Name of the tenderer:

Done at Date:

Signature/Company stamp:

Annex III Alternative menus

	Hot & cold dishes	Desserts	Draft beer & soft drinks	Quantity of food & drinks
Menu 1				
Menu 2				
Menu 3				
…				

Note:

- Detailed menus accompanied with pictures shall be included in the tender
- Flowers display plan shall be described or depicted

Annex IV Type of staff and service

Staff	Number of staff and remarks
Waiters/Waitresses	_____ persons
Chef	_____ persons
Sales manager	Please provide the name of the manager: _____
Team leader to manage the event and staff	_____ persons and please provide the name of the team leader
Similar events held in 2014 or 2015	1. 2. 3. 4.

Annex V
Declaration of Honour

On Exclusion Criteria and Absence of Conflict Of Interest

(Complete or delete the parts in grey italics in parenthese)
[Choose options for parts in grey between square brackets]

The undersigned *(insert name of the signatory of this form)*:

- ❑ in [his][her] own name *(for a natural person)*

  or

- ❑ representing the following legal person: *(only if the economic operator is a legal person)*

full official name:

official legal form:

full official address:

VAT registration number:

- ➢ declares that [the above-mentioned legal person][he][she] is not in one of the following situations:

a) is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

b) has been convicted of an offence concerning professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;

c) has been guilty of grave professional misconduct proven by any means which the contracting authorities can justify including by decisions of the European Investment Bank and international organisations;

d) is not in compliance with all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be performed;

e) has been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such activity is detrimental to the Union's financial interests;

f) is a subject of an administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a procurement procedure or failing to supply this information, or having been declared to be in serious breach of its obligations under contracts covered by the Union's budget.

- ➢ *(Only for legal persons other than Member States and local authorities, otherwise delete)* declares that the natural persons with power of representation, decision-making or control[1] over the above-mentioned legal entity are not in the situations referred to in b) and e) above;

- ➢ declares that [the above-mentioned legal person][he][she]:

[1] This covers the company directors, members of the management or supervisory bodies, and cases where one natural person holds a majority of shares.

g) has no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinity, family, emotional life or any other shared interest;

h) will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;

i) has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to award of the contract;

j) provided accurate, sincere and complete information to the contracting authority within the context of this procurement procedure ;

- acknowledges that **[the above-mentioned legal person][he][she]** may be subject to administrative and financial penalties[2] if any of the declarations or information provided prove to be false.

In case of award of contract, the following evidence shall be provided upon request and within the time limit set by the contracting authority:

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the tenderer is a legal person and the national legislation of the country in which the tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the tenderer.

For the situation described in point (d) above, recent certificates or letters 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 tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

If the tenderer is a legal person, information on the natural persons with power of representation, decision making or control over the legal person shall be provided only upon request by the contracting authority.

Full name Date Signature

[2] As provided for in Article 109 of the Financial Regulation (EU, Euratom) 966/2012 and Article 145 of the Rules of Application of the Financial Regulation

Annex VI LEF and BAF

Legal Entities File (LEF)

Please download it at

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

In addition to the completed form, the successful tenderer must provide the following supporting document:

1. A copy of the VAT registration document if applicable and if the VAT number does not appear on the official document referred to at 2 below.

2. A copy of an official document (Official Gazette, company register, Articles of Incorporation, etc.) showing the name of the legal entity, the address of the head office and the registration number given to it by the national authorities. Please include a copy of amendments if changes have occurred since the initial registration.

The company's VAT (tax ID) number must be identical with the declared VAT (tax ID) number on the Legal Entity Form (field: Registration No. (# 2)).

Bank Account File (BAF)

Please download it at

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

The successful tenderer is obliged to provide the completed Financial Identity Form accompanied by the relevant supporting documents as indicated in this Annex.
This form contains the contractor's banking information in order for the European Union to be able to make wire transfer payments (following the contractor's invoice).

The Financial Identification Form must be completed, signed and dated by the Account Holder. Furthermore, it must be certified by the contractor's bank (bank stamp and bank's representative signature is a must). For a successful tenderer based in a country where the International Bank Account Number (IBAN) does not apply, please provide an equivalent banking (routing transit) number.

Note: This form does not need to be completed for the tender response but must be completed by the successful tenderer immediately on notification of award of contract if it is not registered in the Delegation's company database.

Annex VII Draft contract

EUROPEAN UNION

DELEGATION TO CHINA AND MONGOLIA

Annex VII

DRAFT SERVICE CONTRACT

CONTRACT NUMBER – CHNP201545

The European External Action Service (EEAS), hereinafter referred to as "the contracting authority", which is represented for the purposes of the signature of this contract by Mr Hans Dietmar Schweisgut, Head of Delegation of the European Union to China and Mongolia (the Delegation),

of the one part,

and

[*official name in full*]

[*official legal form*][1]

[*statutory registration number*][2]

[*official address in full*]

[*VAT registration number*]

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

of the other part,

1 Delete if contractor is a natural person or a body governed by public law.

2 Delete if contractor is a body governed by public law. For natural persons, indicate the number of their identity card or, failing that, of their passport or equivalent.

HAVE AGREED

the **Special Conditions,** the **general conditions for service contracts** and the following Annexes*:*

Annex I – Tender Specifications (reference No [*complete*] of [*insert date*])

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

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

- The terms set out in the special conditions shall take precedence over those in the other parts of the Contract.

- The terms set out in the general conditions shall take precedence over those in the annexes.

- The terms set out in the tender specifications (Annex I) shall take precedence over those in the tender (Annex II).

I – SPECIAL CONDITIONS

ARTICLE I.1 – SUBJECT MATTER

I.1.1. The subject of the contract is catering service for Europe Day reception on 6th May 2015.

I.1.2. The contractor shall execute the tasks assigned to him in accordance with the tender specifications annexed to the contract (Annex I).

ARTICLE I.2 - DURATION

I.2.1. The catering service will be carried out on 6th May, 2015. However the preparation of the event could start on the date on which it is signed by the last contracting party if necessary.

I.22. The duration of the execution of the tasks, including preparation, shall not exceed 1 month. Unless otherwise specified, all periods specified in the contract are calculated in calendar days.

I.2.4. Contract renewal

N/A

ARTICLE I.3 –PRICE

I.3.1. The maximum total amount to be paid by the contracting authority under the Contract shall be CNY [*amount in figures and in words*] covering all tasks executed.

ARTICLE I.4 – PAYMENT ARRANGEMENTS

The total amount shall be admissible if the contractor has fulfilled all his contractual obligations by the date on which the request and the invoice are submitted. The contractor shall submit an invoice for payment.

The amount is due within 30 days of the date when the contracting authority receives the request for the payment accompanied by the relevant invoice.

ARTICLE I.5 – BANK ACCOUNT

Payments shall be made to the contractor's bank account denominated in [CNY], identified as follows:

Name of bank:
Address of branch in full:
Exact designation of account holder:
Full account number including codes:

ARTICLE I.6 – COMMUNICATION DETAILS AND DATA CONTROLLER

For the purpose of Article II.6, the data controller shall be the Head of Delegation of the European Union to China and Mongolia.

Communications shall be sent to the following addresses:

Contracting authority:
European External Action Service
Delegation of European Union to China
Attn.: Bruno Devos, Head of Administration
No 15 Dongzhimenwai Dajie Beijing China (100600)
Email: bruno.devos@eeas.europa.eu

***

Contractor:
[Full name]
[Function]
[Company name]
[Full official address]
Email: [complete]

ARTICLE I.7– APPLICABLE LAW AND SETTLEMENT OF DISPUTES

I.7.1. The Contract shall be governed by Union law, complemented, where necessary, by the law of the People's Republic of China.

I.7.2. Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the courts of People's Republic of China.

ARTICLE I.8 - EXPLOITATION OF THE RESULTS OF THE CONTRACT

N/A

ARTICLE I.9 – TERMINATION BY EITHER PARTY

Either party may, unilaterally and without being required to pay compensation, terminate the contract by formally notifying the other party by giving one month's notice. Should the contracting authority terminate the contract, the contractor shall only be entitled to payment corresponding to part-performance of the Contract before the termination date. Article II.14.3 shall apply.

SIGNATURES

For the contractor,	For the contracting authority,
[*Company name/forename/surname/function*]	Mr Hans Dietmar Schweisgut, Head of Delegation, European Union to China and Mongolia

signature[s]: _____

Done at Beijing, [date]

signature:_____

Done at Beijing, [date]

In duplicate in English.

II – GENERAL CONDITIONS FOR SERVICE CONTRACTS

ARTICLE II.1 – PERFORMANCE OF THE CONTRACT

II.1.1 The contractor shall perform the contract to the highest professional standards.

II.1.2 The contractor shall be solely responsible for taking the necessary steps to obtain any permit or licence required for performance of the contract under the laws and regulations in force at the place where the tasks assigned to it are to be executed.

II.1.3 Without prejudice to Article II.4 any reference made to the contractor's personnel in the contract shall relate exclusively to individuals involved in the performance of the contract.

II.1.4 The contractor must ensure that the personnel performing the contract possesses the professional qualifications and experience required for the execution of the tasks assigned to it.

II.1.5 The contractor shall neither represent the contracting authority nor behave in any way that would give such an impression. The contractor shall inform third parties that it does not belong to the European public service.

II.1.6 The contractor shall be solely responsible for the personnel who executes the tasks assigned to the contractor.

The contractor shall stipulate the following employment or service relationships with its personnel:

(a) personnel executing the tasks assigned to the contractor may not be given orders directly by the contracting authority;

(b) the contracting authority may not under any circumstances be considered to be the employer of the personnel referred to in point (a) and the personnel shall undertake not to invoke against the contracting authority any right arising from the contractual relationship between the contracting authority and the contractor.

II.1.7 In the event of disruption resulting from the action of one of the contractor's personnel working on the contracting authority's premises or in the event that the expertise of a member of the contractor's personnel fails to correspond to the profile required by the contract, the contractor shall replace him without delay. The contracting authority shall have the right to make a reasoned request for the replacement of any such personnel. The replacement personnel must have the necessary qualifications and be capable of performing the contract under the same contractual conditions. The contractor shall be responsible for any delay in the execution of the tasks assigned to it resulting from the replacement of personnel.

II.1.8 Should the execution of the tasks be directly or indirectly hampered, either partially or totally, by any unforeseen event, action or omission, the contractor shall immediately and on its own initiative record it and report it to the contracting authority. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the contractor to ensure full compliance with its obligations under this contract. In such an event the contractor shall give priority to solving the problem rather than determining liability.

II.1.9 Should the contractor fail to perform its obligations under the contract, the contracting authority may - without prejudice to its right to terminate the

contract - reduce or recover payments in proportion to the scale of the unperformed obligations. In addition, the contracting authority may claim compensation or impose liquidated damages in accordance with Article II.12.

ARTICLE II.2 – MEANS OF COMMUNICATION

II.2.1 Any communication relating to the contract or to its performance shall be made in writing and shall bear the contract number. Any communication is deemed to have been made when it is received by the receiving party unless otherwise provided for in this contract.

II.2.2 Electronic communication shall be deemed to have been received by the parties on the day of dispatch of that communication provided it is sent to the addressees listed in Article I.6. Without prejudice to the preceding, if the sending party receives a message of non-delivery to or of absence of the addressee, it shall make every effort to ensure the actual receipt of such communication by the other party.
Electronic communication shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.

II.2.3 Mail sent using the postal services is deemed to have been received by the contracting authority on the date on which it is registered by the department responsible referred to in Article I.6.
Any formal notification shall be made by registered mail with return receipt or equivalent, or by equivalent electronic means.

ARTICLE II.3 – LIABILITY

II.3.1 The contractor shall be solely responsible for complying with any legal obligations incumbent on it.

II.3.2 The contracting authority shall not be held liable for any damage caused or sustained by the contractor, including any damage caused by the contractor to third parties during or as a consequence of performance of the contract, except in the event of wilful misconduct or gross negligence on the part of the contracting authority.

II.3.3 The contractor shall be held liable for any loss or damage sustained by the contracting authority in performance of the contract, including in the event of subcontracting, and for any claim by a third party, but only to an amount not exceeding three times the total amount of the contract. Nevertheless, if the damage or loss is caused by the gross negligence or wilful misconduct of the contractor or of its personnel or subcontractors, the contractor shall have unlimited liability for the amount of the damage or loss.

II.3.4 The contractor shall indemnify and hold the EEAS harmless for all damages and costs incurred due to any claim. The contractor shall provide compensation in the event of any action, claim or proceeding brought against the contracting authority by a third party as a result of damage caused by the contractor during the performance of the contract. In the event of any action brought by a third party against the contracting authority in connection with the performance of the contract, including any alleged breach of intellectual property rights, the contractor shall assist the contracting authority. Such expenditure incurred by the contractor may be borne by the contracting authority.

II.3.5 The contractor shall take out an insurance policy against risks and damage relating to the performance of the contract, if required by the relevant applicable

legislation. It shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the contracting authority should it so request.

ARTICLE II.4 – CONFLICT OF INTEREST

II.4.1 The contractor shall take all the necessary measures to prevent any situation of conflict of interest. Such situation arises where the impartial and objective performance of the contract is compromised for reasons involving economic interest, political or national affinity, family or emotional ties, or any other shared interest.

II.4.2 Any situation constituting or likely to lead to a conflict of interest during the performance of the contract shall be notified to the contracting authority in writing without delay. The contractor shall immediately take all the necessary steps to rectify the situation. The contracting authority reserves the right to verify that the steps taken are appropriate and may require that additional steps be taken within a specified deadline.

II.4.3 The contractor declares that it has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, when such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, in so far as it serves as an incentive or reward relating to the performance of the contract.

II.4.4 The contractor shall pass on all the relevant obligations in writing to its personnel and to any natural person with the power to represent it or take decisions on its behalf and ensure that it is not placed in a situation which could give rise to conflicts of interest. The contractor shall also pass on all the relevant obligations in writing to third parties involved in the performance of the contract including subcontractors.

ARTICLE II.5 – CONFIDENTIALITY

II.5.1 The contracting authority and the contractor shall treat with confidentiality any information and documents, in any form, disclosed in writing or orally in relation to the performance of the contract and identified in writing as confidential.

The contractor shall:

(a) not use confidential information and documents for any purpose other than fulfilling its obligations under the contract without prior written agreement of the contracting authority;
(b) ensure the protection of such confidential information and documents with the same level of protection it uses to protect its own confidential information, but in no case any less than reasonable care;
(c) not disclose directly or indirectly confidential information and documents to third parties without prior written agreement of the contracting authority.

II.5.2 The confidentiality obligation set out in Article II.5.1 shall be binding on the contracting authority and the contractor during the performance of the contract and for five years starting from the date of the payment of the balance unless:

(a) the disclosing party agrees to release the other party from the confidentiality obligation earlier;
(b) the confidential information becomes public through other means than in breach of the confidentiality obligation, through disclosure by the party bound by that obligation;
(c) the disclosure of the confidential information is required by law.

II.5.3 The contractor shall 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, an undertaking that they will comply with the confidentiality obligation set out in Article II.5.1.

ARTICLE II.6 – PROCESSING OF PERSONAL DATA

II.6.1 Any personal data included in the contract shall be processed pursuant to 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 shall be processed by the data controller solely for the purposes of the performance, management and monitoring of the contract without prejudice to its possible transmission to the bodies charged with monitoring or inspection tasks in application of Union law.

II.6.2 The contractor shall have 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.6.3 The contractor shall have right of recourse at any time to the European Data Protection Supervisor.

II.6.4 Where the contract requires the processing of personal data by the contractor, the contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data and the means by which the data subject may exercise his rights.

II.6.5 The contractor shall grant its personnel access to the data to the extent strictly necessary for the performance, management and monitoring of the contract.

II.6.6 The contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:

(a) prevent any unauthorised person from gaining access to computer systems processing personal data, and especially:

(i) unauthorised reading, copying, alteration or removal of storage media;

(ii) unauthorised data input, 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.

ARTICLE II.7 – SUBCONTRACTING

II.7.1 The contractor shall not subcontract without prior written authorisation from the contracting authority nor cause the contract to be de facto performed by third parties.

II.7.2 Even where the contracting authority authorises the contractor to subcontract to third parties, it shall nevertheless remain bound by its contractual obligations and shall be solely responsible for the proper performance of this contract.

II.7.3 The contractor shall make sure that the subcontract does not affect rights and guarantees granted to the contracting authority by virtue of this contract, notably by Article II.18.

ARTICLE II.8 – AMENDMENTS

II.8.1 Any amendment to the contract shall be made in writing before fulfilment of any new contractual obligations and in any case before the date of payment of the balance.

II.8.2 The amendment may not have the purpose or the effect of making changes to the contract which might call into question the decision awarding the contract or result in unequal treatment of tenderers.

ARTICLE II.9 – ASSIGNMENT

II.9.1 The contractor shall not assign the rights, including claims for payments, and obligations arising from the contract, in whole or in part, without prior written authorisation from the contracting authority.

II.9.2 In the absence of such authorisation, or in the event of failure to observe the terms thereof, the assignment of rights or obligations by the contractor shall not be enforceable against the contracting authority and shall have no effect on it.

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

II.10.1 Definitions

In this contract the following definitions apply:

(1) 'results' means any intended outcome of the performance of the contract which is delivered and finally accepted by the contracting authority.

(2) 'creator' means any natural person who contributed to the production of the result and includes personnel of the contracting authority or a third party.

(3) 'pre-existing rights' means any industrial and intellectual property rights, including background technology, which exist prior to the contracting authority or the contractor

ordering them for the purpose of the contract execution and include rights of ownership and use by the contractor, the creator, the contracting authority and any third parties.

II.10.2 Ownership of the results

The ownership of the results shall be fully and irrevocably acquired by the Union under this contract including any rights in any of the results listed in this contract, including copyright and other intellectual or industrial property rights, and all technological solutions and information contained therein, produced in performance of the contract. The contracting authority may exploit them as stipulated in this contract. All the rights shall be acquired by the Union from the moment the results are delivered by the contractor and accepted by the contracting authority. Such delivery and acceptance are deemed to constitute an effective assignment of rights from the contractor to the Union.

The payment of the price as set out in the order forms or specific contracts is deemed to include any fees payable to the contractor in relation to the acquisition of ownership of rights by the Union including all forms of use of the results.

The acquisition of ownership of rights by the Union under this contract covers all territories worldwide.

Any intermediary sub-result, raw data, intermediary analysis made available by the contractor cannot be used by the contracting authority without the written consent of the contractor, unless the contract explicitly provides for it to be treated as a self-contained result.

II.10.3 Licensing of pre-existing rights

The Union shall not acquire ownership of the pre-existing rights.

The contractor shall license the pre-existing rights on a royalty-free, non-exclusive and irrevocable basis to the Union which may use the pre-existing right as foreseen in Article I.8.1 or in order forms or specific contracts. All the pre-existing rights shall be licensed to the Union from the moment the results were delivered and accepted 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 whole duration of intellectual property rights protection.

II.10.4 Modes of exploitation

The Union shall acquire ownership of each of the results produced as an outcome of this contract which may be used for any of the following purposes:

(a) giving access upon individual requests without the right to reproduce or exploit, as provided for by Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents;

(b) storage of the original and copies made in accordance with this contract;

(c) archiving in line with the document management rules applicable to the contracting authority.

II.10.5 Identification and evidence of granting of pre-existing rights and rights of third parties

When delivering the results, the contractor shall warrant that they are free of rights or claims from creators and third parties including in relation to pre-existing rights, for any use envisaged by the contracting authority. This does not concern the moral rights of natural persons.

The contractor shall establish to that effect a list of all pre-existing rights and rights of creators and third parties on the results of this contract or parts thereof. This list shall be provided no later than the date of delivery of the final results.

In the result the contractor shall clearly point out all quotations of existing textual works. The complete reference should include as appropriate: name of the author, title of the work, date and place of publication, date of creation, address of publication on internet, number, volume and other information which allows the origin to be easily identified.
Upon request by the contracting authority, the contractor shall provide evidence of ownership or rights to use all the listed pre-existing rights and rights of third parties except for the rights owned by the Union.

This evidence may refer, inter alia, to rights to: parts of other documents, images, graphs, tables, data, software, technical inventions, know-how etc. (delivered in paper, electronic or other form), IT development tools, routines, subroutines and/or other programs ("background technology"), concepts, designs, installations or pieces of art, data, source or background materials or any other parts of external origin.

The evidence shall 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 in case it is found that it does not hold the necessary rights, regardless of when and by whom this fact was 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.

II.10.6 Creators

By delivering the results the contractor warrants that the creators undertake not to oppose that their names be recalled when the results are presented to the public and confirms that the results can be divulged. Names of authors shall be recalled on request in the manner communicated by the contractor to the contracting authority.
The contractor shall obtain the consent of creators regarding the granting of the relevant rights and be ready to provide documentary evidence upon request.

II.10.7 Persons appearing in photographs or films

If natural, recognisable persons appear in a result or their voice is recorded the contractor shall submit a statement of these persons (or of the persons exercising parental authority in case of minors) where they give their permission for the described use of their image or voice on request by the contracting authority. This does not apply to persons whose permission is not required in line with the law of the country where photographs were taken, films shot or audio records made.

II.10.8 Copyright for pre-existing rights

When the contractor retains pre-existing rights on parts of the results, reference shall be inserted to that effect when the result is used as set out in Article I.8.1 with the following disclaimer: © - year – European Union. All rights reserved. Certain parts are licensed under conditions to the EU.

II.10.9 Visibility of Union funding and disclaimer

When making use of the results, the contractor shall declare that they have been produced within 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.

ARTICLE II.11 – FORCE MAJEURE

II.11.1 'Force majeure' means any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations under the contract, which was not attributable to error or negligence on their part or on the part of subcontractors and which proves to be inevitable in spite of exercising due diligence. Any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure, as well as labour disputes, strikes or financial difficulties, cannot be invoked as force majeure.

II.11.2 A party faced with force majeure shall formally notify the other party without delay, stating the nature, likely duration and foreseeable effects.

II.11.3 The party faced with force majeure shall not be held in breach of its contractual obligations if it has been prevented from fulfilling them by force majeure. Where the contractor is unable to fulfil its contractual obligations owing to force majeure, it shall have the right to remuneration only for the tasks actually executed.

II.11.4 The parties shall take all the necessary measures to limit any damage due to force majeure.

ARTICLE II.12 – LIQUIDATED DAMAGES

The contracting authority may impose liquidated damages should the contractor fail to complete its contractual obligations, also with regard to the required quality level, according to the tender specifications.
Should the contractor fail to perform its contractual obligations within the time-limits set by the contract, then, without prejudice to the contractor's actual or potential liability or to the contracting authority's right to terminate the contract, the contracting authority may impose liquidated damages for each and every calendar day of delay according to the following formula:

0.3 x (*V/d*)

V is the amount specified in Article I.3.1;

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

The contractor may submit arguments against this decision within 30 days of receipt of the formal notification. In the absence of a reaction on its part or of written withdrawal by the contracting authority within 30 days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable.

The parties expressly acknowledge and agree that any sums payable under this article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses incurred due to failure to fulfil obligations which may be reasonably anticipated.

ARTICLE II.13 – SUSPENSION OF THE PERFORMANCE OF THE CONTRACT

II.13.1 Suspension by the contractor

The contractor may suspend the performance of the contract or any part thereof if a case of force majeure makes such performance impossible or excessively difficult. The contractor shall inform the contracting authority about the suspension without delay, giving all the necessary reasons and details and the envisaged date for resuming the performance of the contract.
Once the circumstances allow resuming performance, the contractor shall inform the contracting authority immediately, unless the contracting authority has already terminated the contract.

II.13.2 Suspension by the contracting authority

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

(a) if the contract award procedure or the performance of the contract prove to have been subject to substantial errors, irregularities or fraud;

(b) in order to verify whether presumed substantial errors, irregularities or fraud have actually occurred.

Suspension shall take effect on the day the contractor receives formal notification, or at a later date provided in the notification. The contracting authority shall give notice as soon as possible to the contractor to resume the service suspended or inform the contractor that it is proceeding with the termination of the contract. The contractor shall not be entitled to claim compensation on account of suspension of the contract or of part thereof.

ARTICLE II.14 – TERMINATION OF THE CONTRACT

II.14.1 Grounds for termination

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

(a) if a change to the contractor's legal, financial, technical or organisational or ownership situation is likely to affect the performance of the contract substantially or calls into question the decision to award the contract;

(b) if execution of the tasks has not actually commenced within three months of the date foreseen, and the new date proposed, if any, is considered unacceptable by the contracting authority, taking into account Article II.8.2;

(c) if the contractor does not perform the contract as established in the tender specifications or fails to fulfil another substantial contractual obligation;

(d) in the event of force majeure notified in accordance with Article II.11 or if the performance of the contract has been suspended by the contractor as a result of force majeure, notified in accordance with Article II.13, where either resuming performance is impossible or the modifications to the contract might call into question the decision awarding the contract or result in unequal treatment of tenderers;

(e) if the contractor is declared bankrupt, is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

(f) if the contractor or any natural person with the power to represent it or take decisions on its behalf has been found guilty of professional misconduct proven by any means;

(g) if the contractor is not in compliance with its obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or with those of the country of the applicable law of this contract or those of the country where the contract is to be performed;

(h) if the contracting authority has evidence that the contractor or natural persons with the power to represent it or take decisions on its behalf have committed fraud, corruption, or are involved in a criminal organisation, money laundering or any other illegal activity detrimental to the Union's financial interests;

(i) if the contracting authority has evidence that the contractor or natural persons with the power to represent it or take decisions on its behalf have committed substantial errors, irregularities or fraud in the award procedure or the performance of the contract, including in the event of submission of false information;

(j) if the contractor is unable, through its own fault, to obtain any permit or licence required for performance of the contract.

II.14.2 Procedure for termination

When the contracting authority intends to terminate the contract it shall formally notify the contractor of its intention specifying the grounds thereof. The contracting authority shall invite the contractor to make any observations and, in the case of point (c) of Article II.14.1, to inform the contracting authority about the measures taken to continue the fulfilment of its contractual obligations, within 30 days from receipt of the notification.
If the contracting authority does not confirm acceptance of these observations by giving written approval within 30 days of receipt, the termination procedure shall proceed. In any case of termination the contracting authority shall formally notify the contractor about its decision to terminate the contract. In the cases referred to in points (a), (b), (c), (e), (g) and (j) of Article II.14.1 the formal notification shall specify the date on which the termination takes effect. In the cases referred to in points (d), (f), (h), and (i) of Article II.14.1 the termination shall take effect on the day following the date on which notification of termination is received by the contractor.

II.14.3 Effects of termination

In the event of termination, the contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the notification of termination, the contractor shall take all the appropriate measures to minimise costs, prevent damages, and cancel or reduce its commitments. The contractor shall have 60 days from the date of termination to draw up the documents required by the special conditions for the tasks already executed on the date of termination and produce an invoice if necessary. The contracting authority may recover any amounts paid under the contract.

The contracting authority may claim compensation for any damage suffered in the event of termination.

On termination the contracting authority may engage any other contractor to execute or complete the services. The contracting authority shall be entitled to claim from the

contractor all extra costs incurred in this regard, without prejudice to any other rights or guarantees it may have under the contract.

ARTICLE II.15 – REPORTING AND PAYMENTS

II.15.1 Date of payment

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

II.15.2 Currency

The contract shall be in euros.
Payments shall be executed in euros or in the local currency as provided for in Article I.5.

Conversion between the euro and another currency shall be made according to the daily euro exchange rate published in the *Official Journal of the European Union* or, failing that, at the monthly accounting exchange rate established by the European Commission and published on its website, applicable on the day on which the payment order is issued by the contracting authority.

II.15.3 Costs of transfer

The costs of the transfer shall be borne in the following way:

(a) costs of dispatch charged by the bank of the contracting authority shall be borne by the contracting authority,

(b) cost of receipt charged by the bank of the contractor shall be borne by the contractor,

(c) costs for repeated transfer caused by one of the parties shall be borne by the party causing repetition of the transfer.

II.15.4 Invoices and Value Added Tax

Invoices shall contain the contractor's identification, the amount, the currency and the date, as well as the contract reference.
Invoices shall indicate the place of taxation of the contractor for value added tax (VAT) purposes and shall specify separately the amounts not including VAT and the amounts including VAT.
The contracting authority is, as a rule, exempt from all taxes and duties, including VAT, pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.

The contractor shall accordingly 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 exemption.

II.15.5 Pre-financing and performance guarantees

Pre-financing guarantees shall remain in force until the pre-financing is cleared against interim payments or payment of the balance and, in case the latter takes the form of a debit note, three months after the debit note is notified to the contractor. The contracting authority shall release the guarantee within the following month.
Performance guarantees shall cover performance of the service in accordance with the terms set out in the tender specifications until its final acceptance by the contracting authority. The amount of a performance guarantee shall not exceed the total price of the contract. The guarantee shall provide that it remains in force until final acceptance. The

contracting authority shall release the guarantee within a month following the date of final acceptance.
Where, in accordance with Article I.4, a financial guarantee is required for the payment of pre-financing, or as performance guarantee, it shall fulfill the following conditions:

(a) the financial guarantee is provided by a bank or an approved financial institution or, at the request of the contractor and agreement by 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 cost of providing such guarantee shall be borne by the contractor.

II.15.6 Interim payments and payment of the balance

The contractor shall submit an invoice for interim payment upon delivery of intermediary results, accompanied by a progress report or any other documents, as provided for in Article I.4 or in the tender specifications.
The contractor shall submit an invoice for payment of the balance within 60 days following the end of the period referred to in Article I.2.3, accompanied by a final progress report or any other documents provided for in for in Article I.4 or in the tender specifications.
Upon receipt, the contracting authority shall pay the amount due as interim or final payment within the periods specified in Article I.4, provided the invoice and documents have been approved and without prejudice to Article II.15.7. Approval of the invoice and documents shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information they contain.
Payment of the balance may take the form of recovery.

II.15.7 Suspension of the time allowed for payment

The contracting authority may suspend the payment periods specified in Article I.4 at any time by notifying the contractor that its invoice cannot be processed, either because it does not comply with the provisions of the contract, or because the appropriate documents have not been produced.
The contracting authority shall inform the contractor in writing as soon as possible of any such suspension, giving the reasons for it.
Suspension shall take effect on the date the notification is sent by the contracting authority. The remaining payment period shall start to run again 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 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 and the new document produced is also rejected, the contracting authority reserves the right to terminate the contract in accordance with Article II.14.1(c).

II.15.8. Interest on late payment

On expiry of the payment periods specified in Article I.4, and without prejudice to Article II.15.7, the contractor 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 shall be the rate in force on the first day of the

month in which the payment period ends, as published in the C series of the *Official Journal of the European Union.*

The suspension of the payment periods in accordance with Article II.15.7 may not be considered as a late payment.

Interest on late payment shall cover the period running from the day following the due date for payment up to and including the date of actual payment as defined in Article II.15.1.

However, when the calculated interest is lower than or equal to EUR 200, it shall be paid to the contractor only upon request submitted within two months of receiving late payment.

ARTICLE II.16 – REIMBURSEMENTS

II.16.1 Where provided by the special conditions or by the tender specifications, the contracting authority shall reimburse the expenses which are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets, or failing that, on production of copies or scanned originals, or on the basis of flat rates.

II.16.2 Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary and the minimum number of nights necessary for overnight stay at the destination.

II.16.3 Travel expenses shall be reimbursed as follows:

(a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;

(b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;

(c) travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;

In addition, travel outside Union territory shall be reimbursed provided the contracting authority has given its prior written consent.

II.16.4 Subsistence expenses shall be reimbursed 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 shall be payable;

(b) daily subsistence allowance shall be payable only on receipt of supporting documents proving that the person concerned was present at the destination;

(c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including meals, local transport which includes transport to and from the airport or station, insurance and sundries;

(d) daily subsistence allowance shall be reimbursed at the flat rates specified in Article I.3;

e) accommodation shall be reimbursed on receipt of supporting documents proving the necessary overnight stay at the destination, up to the flat-rate ceilings specified in Article I.3.

II.16.5 The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the contracting authority has given prior written authorisation.

II.16.6 Conversion between the euro and another currency shall be made as specified in Article II.5.2.

ARTICLE II.17 – RECOVERY

II.17.1 If an amount is to be recovered under the terms of the contract, the contractor shall repay the contracting authority the amount in question according to the terms and by the date specified in the debit note.

II.17.2 If the obligation to pay the amount due is not honoured by the date set by the contracting authority in the debit note, the amount due shall bear interest at the rate indicated in Article II.15.8. Interest on late payments shall cover the period from the day following the due date for payment, up to and including the date when the contracting authority receives full payment of the amount owed.

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

II.17.3 If payment has not been made by the due date, the contracting authority may, after informing the contractor in writing, recover the amounts due by offsetting them against any amounts owed to the contractor by the Union or by the European Atomic Energy Community or by calling in the financial guarantee, where provided for in Article I.4.

AERTICLE II.18 – CHECKS AND AUDITS

II.18.1 The contracting authority and the European Anti-Fraud Office may check or have an audit on the performance of the contract. It may be carried out either directly by its own staff or by any other outside body authorised to do so on its behalf.

Such checks and audits may be initiated during the performance of the contract and during a period of five years which starts running from the date of the payment of the balance.

The audit procedure shall be deemed to be initiated on the date of receipt of the relevant letter sent by the contracting authority. Audits shall be carried out on a confidential basis.

II.18.2 The contractor shall keep all original documents stored on any appropriate medium, including digitised originals when they are authorised by national law and under the conditions laid down therein, for a period of five years which starts running from the date of payment of the balance.

II.18.3 The contractor shall allow 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 in order to conduct such checks and audits. The contractor shall ensure that the information is readily available at the moment of the check or audit and, if so requested, that information be handed over in an appropriate form.

II.18.4 On the basis of the findings made during the audit, a provisional report shall be drawn up. It shall be sent to the contractor, which shall have 30 days following the date of receipt to submit observations. The final report shall be sent to the contractor within 60 days following the expiry of that deadline.

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

II.18.5 By virtue of 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 1073/1999 of the European Parliament and the Council of 25 May 1999 concerning investigation conducted by the European Anti-Fraud Office (OLAF), the OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities. Where appropriate, the findings may lead to recovery by the contracting authority.

II.18.6 The Court of Auditors shall have the same rights as the contracting authority, notably right of access, for the purpose of checks and audits.