DRAFT SERVICES CONTRACT

No D/SE/11/01

European Union Survey of discrimination and victimisation of Lesbian, Gay, Bisexual and Transgender Persons

(LGBT Survey)

ANNEX B

The European Union Agency for Fundamental Rights (hereinafter referred to as "the Contracting Authority"), and with its seat at Schwarzenbergplatz 11, Vienna 1040, Austria, which is represented for the purposes of the signature of this Contract by Mr Morten Kjaerum, Director,

of the one part

and

[Contractor's Official name]

[Contractor's Legal Form]

[Contractor's Registration Number]

[Contractor's Address]

[Contractor's VAT number]

(hereinafter referred to as "the Contractor"[1]), represented for the purposes of the signature of this Contract by [Title and Full Name],

of the other part

HAVE AGREED

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

Annex I Tender and Technical Specifications (Invitation to Tender No D/SE/11/01 of XX/XX/XXXX), including clarifications during the tendering phase.

[1] In the case of a joint offer and provided the invitation to tender so specifies, the following clause should be added below the identification of the parties: "The parties identified above and hereinafter collectively referred to as 'the Contractor' shall be jointly and severally liable vis-à-vis the Commission for the performance of this contract".

Annex II	Contractor's Tender, including clarifications during the evaluation of tenders – Original archived at the Contracting Authority's premises.
Annex III	Bank Identification Form and Legal entities – Original archived at the Contracting Authority's premises
Annex IV	Certificate of Conformity/Task Acceptance Form
Annex V	Power of Attorney (if applicable)

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 and Technical Specifications (Annex I) shall take precedence over those in the Tender (Annex II).

Subject to the above, the several instruments forming part of this Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by the Contracting Authority, subject to the rights of the Contractor under Article 1.7 should he dispute any such instruction.

1 SPECIAL CONDITIONS

ARTICLE 1.1- SUBJECT

1.1.1 The subject of the Contract is the provision of services related to the performance of a European Union Survey of discrimination and victimisation of Lesbian, Gay, Bisexual and Transgender Persons for the European Union Agency for Fundamental Rights (LGBT Survey).

1.1.2 The Contractor shall execute the tasks assigned to him in accordance with the Tender Specifications annexed to the Contract (Annex I) and his specific Tender of XX/XX/XXXX.

ARTICLE 1.2- DURATION

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

1.2.2 Execution of tasks may under no circumstances begin before the date on which the Contract enters into force.

1.2.3. The duration of the tasks shall not exceed thirteen (13) months. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated. Execution of the tasks shall start from the date of entry into force of the Contract. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.

The Contracting Authority is not obliged to react to any request for extension of the duration of the tasks received less than one month before expiry of the period of execution or with less than one third of the period of execution left to run, whichever period is the shorter.

1.2.4 The execution of the tasks is divided in two phases. The duration of Phase I is five (5) months and the duration of Phase II is eight (8) months. The Contractor is authorised to continue the execution of the tasks in Phase II only with a written consent of the Contracting Authority following a positive evaluation of the deliverables of Phase I, on the condition that the funding necessary is available in the budget of the Contracting Authority. The Contracting Authority shall inform the Contractor about its consent in advance by exchange of letters.

ARTICLE 1.3- PRICES

1.3.1. The maximum total amount to be paid by the Contacting authority under the Contract shall be EUR 370,000.00 [three hundred seventy thousand] covering all tasks executed, divided as follows:

- Phase I**:** EUR 275.000.00 [two hundred seventy-five thousand]

- Phase II: EUR 95,000.00 [ninety-five thousand]

1.3.2 The total amount referred to in the above paragraph shall be fixed and not subject to revision.

ARTICLE 1.4- PAYMENT PERIODS AND FORMALITIES

Payments under the Contract shall be made in accordance with Article 2.4. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted. Payment requests may not be made if payments for previous periods have not been executed as a result of default or negligence on the part of the Contractor.

Payments under the Contract shall be made in accordance with the following provisions:

Pre-financing

Following signature of the Contract by the last Contracting party, within thirty (30) days of the receipt by the Contracting Authority of:

- the relevant invoice, indicating the reference number of the Contract to which it refers

a pre-financing payment of 30% of the total amount of Phase I referred to in Article 1.3.1 shall be made.

Interim payment

Requests for interim payment by the Contractor in accordance with the instructions laid down in Annex A.1 Technical Specifications shall be admissible if accompanied by:

- the relevant invoices, indicating the reference number of the Contract to which they refer and
- the Technical Setup Report (Deliverable D8),

provided the report has been approved by the Contracting Authority.

The Contracting Authority shall have twenty (20) days from receipt to approve or reject the report, and the Contractor shall have ten (10) days in which to submit additional information or a new report.

Within 30 days from reception of the relevant invoices and of the date on which the report is approved by the Contracting Authority, an interim payment equal to 70% of the total amount of Phase I referred to in Article 1.3.1 shall be made.

Payment of the balance

The request for payment of the balance by the Contractor in accordance with the instructions laid down in Annex I shall be admissible if accompanied by:

- the relevant invoices, indicating the reference number of the Contract to which they refer and
- Deliverables D10A (Data set, codebook, basic frequency tables and short report), D10B (Final Comparative Report), D10C (Executive Summary) and D10D (Syntax files related to the analysis) in accordance with the instructions laid down in Annex A.1 Technical Specifications,

provided the deliverables above have been approved by the Contracting Authority.

The Contracting Authority shall have forty-five (45) days from receipt to approve or reject the deliverables, and the Contractor shall have ten (10) days in which to submit additional information or new deliverables.

Only in case the initiation of Phase II is agreed by the Contracting Authority, the Contractor will be entitled to a payment of the balance equal to the total amount of Phase II referred to in Article 1.3.1. Within 30 days from reception of the relevant invoices and of the date on which the deliverables above are approved by the Contracting Authority, the payment of the balance shall be made.

[For Contractors established in Belgium, the orders shall include the following provision: “En Belgique, l’utilisation de ce bon de commande vaut présentation d’une demande d’exemption de la TVA n° 450” or an equivalent statement in the Dutch or German language. The Contractor shall include the following statement in his invoice(s): “Exonération de la TVA, article 42, paragraphe 3.3 du code de la TVA” or an equivalent statement in the Dutch or German language.]

ARTICLE 1.5- BANK ACCOUNT

Payments shall be made to the Contractor’s bank account denominated in euro, stated in the Contractor’s financial identification form set out in Annex III as follows:

Name of bank: [complete]

Address of branch in full: [complete]

Exact designation of account holder: [complete]

Full account number including codes: [complete]

IBAN code: [complete]

BIC code: [complete]

ARTICLE 1.6- GENERAL ADMINISTRATIVE PROVISIONS

Any communication relating to the Contract shall be made in writing and shall bear the Contract number. Ordinary mail shall be deemed to have been received by the Contracting Authority on the date on which it is registered by the department responsible indicated below. Correspondence should be sent to the following addresses:

Contracting Authority:

European Union Agency for Fundamental Rights
to the attention of Mr. Constantinos Manolopoulos
Schwarzenbergplatz 11,
Vienna 1040,
Austria

Contractor:
Mr/Mrs [complete]
Function [complete]
Company name [complete]
Contact address in full [complete]

ARTICLE 1.7- APPLICABLE LAW AND SETTLEMENT OF DISPUTES

1.7.1 The Contract shall be governed by Union Law, complemented, where necessary, by the national substantive law of Austria.

[1.7.1a Without prejudice to Article 1.7.2 in the event that any dispute arises between the parties resulting from the interpretation or application of the Contract and the dispute is not resolved by negotiation, the parties may agree to submit the dispute to mediation.

If any party to the dispute gives written notice to the other party of its desire to commence mediation, and the other party agrees in writing, the parties shall jointly appoint a mutually acceptable mediator within two weeks of the date of the said written agreement. If the parties are unable to agree upon the appointment of a mediator within that time period, any party may apply to [court, organization or person agreed to by the parties when signing the Contract], for the appointment of a mediator.

The mediator's written proposal or his written conclusion stating that no proposal can be made, shall be produced within two months of the date of the written agreement by the second party to commence mediation. The mediator's proposal or conclusion shall not be binding for the parties, who reserve the right to bring the dispute before the courts, as per Art. 1.7.2.

Within two weeks of the date of notification of the proposal by the mediator, the parties can conclude a written agreement, duly signed by all parties, based on the proposal.

The parties further agree to share equally the costs of mediation by the mediator, which costs will not include any other costs incurred by a party in connection with the mediation][2].

1.7.2 Any dispute between the parties resulting from the interpretation or application of application of the Contract which cannot be settled amicably shall be brought before the Court of Justice of the European Union.

ARTICLE 1.8- DATA PROTECTION

Any personal data included in or relating to the Contract, including its execution shall 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. The data shall be processed solely for the purposes of the performance, management and monitoring of the Contract by the head of Administration of the Agency without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in application of Union law. The Contractor shall have the right of access to his/her personal data and the right to rectify any such data. Should the Contractor have any queries concerning the processing of his/her personal data, s/he shall address them to the Head of Administration of the Agency. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

Where the Contract requires the processing of 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 which may be processed, the recipients of the data, and the means by which the data subject may exercise his/her rights.

The data shall be confidential within the meaning of Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data. The Contractor shall limit access to the data to the staff strictly necessary for the performance, management and monitoring of the Contract.

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 having access to computer systems processing personal data, and especially:

[2] Optional clause

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

ab) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;

ac) unauthorised persons from using 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 institution or body;

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 1.9- TERMINATION BY EITHER CONTRACTING PARTY

Either contracting party may, of its own volition and without being required to pay compensation, terminate the Contract by serving three months' formal prior notice. Should the Contracting Authority terminate the Contract, the Contractor shall only be entitled to payment corresponding to the goods and/or services ordered before the termination date. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the goods delivered and services rendered up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

ARTICLE 1.9a – CONTRACT CONCLUDED DURING STANDSTILL PERIOD

In case this Contract was signed by both the Contacting authority and the Contractor before the expiry of 14 calendar days from the day after simultaneous dispatch of information about the award decisions and decisions to reject, this Contract shall be null and void.

This article is not applicable for contracts not covered by Directive 2004/18/EC and in cases indicated in Article 158a(2) of the rules for the implementation of the Financial Regulation (Regulation No 2342/2002).

ARTICLE 1.10- FISCAL PROVISIONS

The Contracting Authority is in respect of its financial interest in this Contract exempt from all duties and taxes, including value added tax.

The Contractor is subject to Value Added Tax. The Value Added Tax registration No. of the contractor is: [complete]

If the Contractor is not exempt from Value Added and other Taxes, he shall make available to the Contracting Authority, upon request, all supporting documents which the Contracting Authority might need in order to apply to the tax authorities for the reimbursement pursuant to Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European The Union of any duties and taxes paid in the course of the performance of this Contract.

Where the Contractor is exempt from Value Added Tax, he is required to submit proof to this effect from his tax authorities or by a professional, who enjoys special public trust (certified accountant, attorney).

If the Contract is subject to VAT outside Austria, but within the scope of application of Council Directive 77/388/EEC of 17 May 1977 in its current legally valid wording, the Contractor declares to accept and process (submit to the relevant tax authorities) the duly filled form according to Art. 15/10 of the specified Directive in order to enable the Contracting Authority to pay the net price of the contract excluding VAT instead of relying on VAT refund. In this case, the Contracting Authority will only pay the net remuneration of the Contract excluding VAT.

2.- GENERAL CONDITIONS

ARTICLE 2.1- PERFORMANCE OF THE CONTRACT

2.1.1 The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on the Contractor, notably those resulting from employment, tax and social legislation.

2.1.2 The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to the Contractor are to be executed.

2.1.3 Without prejudice to Article 2.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.

2.1.4 The Contractor must ensure that any staff performing the Contract have the professional qualifications and experience required for the execution of the tasks assigned to the Contractor.

2.1.5 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 he does not belong to the European public service.

2.1.6 The Contractor shall have sole responsibility for the staff who execute the tasks assigned to the Contractor.

The Contractor shall make provision for the following employment or service relationships with his staff:

- staff executing the tasks assigned to the Contractor may not be given orders directly by the Contracting Authority;
- the Contracting Authority may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Contracting Authority any right arising from the contractual relationship between the Contracting Authority and the Contractor.

2.1.7 In the event of disruption resulting from the action of a member of the Contractor's staff working on Contracting Authority premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace the member without delay. The Contracting Authority shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary

qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to the Contractor resulting from the replacement of staff in accordance with this Article.

2.1.8 Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his 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 his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.

2.1.9 Should the Contractor fail to perform his obligations under the Contract in accordance with the provisions laid down therein, the Contracting Authority may – without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, the Contracting Authority may impose liquidated damages, as provided for in Article 2.16.

ARTICLE 2.2- LIABILITY

2.2.1 The Contracting Authority shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of the Contracting Authority.

2.2.2 The Contractor shall be liable for any loss or damage caused by the Contractor in performance of the Contract, including in the event of subcontracting under Article 2.13. The Contracting Authority shall not be liable for any act or default on the part of the Contractor in performance of the Contract.

2.2.3 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 in performance of the Contract.

2.2.4 in the event of any action brought by a third party against the Contracting Authority in connection with performance of the Contract, the Contractor shall assist the Contracting Authority. Expenditure incurred to this end may be borne by the Contracting Authority.

2.2.5 The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He 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 2.3- CONFLICT OF INTERESTS

2.3.1 The Contractor shall take all necessary measures in order to prevent any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified to the Contracting Authority in writing without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

The Contracting Authority reserves the right to verify that such measures are adequate and may require that additional measures be taken, if necessary, within a time limit which it shall set. The Contractor shall ensure that his staff, board and directors are not placed in a situation which could give rise to conflict of interest. Without prejudice to Article 2.1 the Contractor shall replace, immediately and without compensation from the Contracting Authority, any member of his staff exposed to such a situation.

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

2.3.3 The Contractor declares:

a) that he has not made, and will not make, any offer of any type whatsoever, from which an advantage can be derived under the Contract,

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

2.3.4 The Contractor shall pass on all the relevant obligations in writing to his staff, board, and directors as well as to third parties involved in performance of the Contract. A copy of the instructions given and the undertakings made in this respect shall be sent to the Contracting Authority should it so request.

ARTICLE 2.4- INVOICING AND PAYMENTS

2.4.1 Pre-financing

Where required by Article 1.4 the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) equal to the amount indicated in the same Article to cover pre-financing under the Contract. Such guarantee may be replaced by a joint and several guarantee by a third party.

The guarantor shall pay to the Contracting Authority at its request an amount corresponding to payments made by it to the Contractor which have not yet been covered by equivalent delivery of goods or execution of related services on his part.

The guarantor shall stand as first-call guarantor and shall not require the Contracting Authority to have recourse against the principal debtor (the Contractor).

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

2.4.2 Interim payment

At the end of each of the periods indicated in Annex I the Contractor shall submit to the Contracting Authority a formal request for payment accompanied by those of the following documents which are provided for in the Special Conditions:

- an interim technical report in accordance with the instructions laid down in Annex I;
- the relevant invoices indicating the reference number of the Contract to which they refer;

If the report is a condition for payment, on receipt the Contracting Authority shall have the period of time indicated in the Special Conditions in which:

- to approve it, with or without comments or reservations, or suspend such period and request additional information; or
- to reject it and request a new report.

If the Contracting Authority does not react within this period, the report shall be deemed to have been approved. Approval of the report does not imply recognition either of its regularity or of the authenticity, completeness or correctness of the declarations or information enclosed.

Where the Contracting Authority requests a new report because the one previously submitted has been rejected, this shall be submitted within the period of time indicated in the Special Conditions. The new report shall likewise be subject to the above provisions.

2.4.3 Payment of the balance:

Within sixty days of completion of the tasks referred to in Annex 1, the Contractor shall submit to the Contracting Authority a formal request for payment accompanied by those of the following documents, which are provided for in the Special Conditions:

- a final technical report in accordance with the instructions laid down in Annex I;
- the relevant invoices indicating the reference number of the Contract to which they refer;
- statements of reimbursable expenses in accordance with Article 2.7

If the report is a condition for payment, on receipt the Contracting Authority shall have the period of time indicated in the Special Conditions in which:

- to approve it, with or without comments or reservations, or suspend such period and request additional information; or
- to reject it and request a new report.

If the Contracting Authority does not react within this period, the report shall be deemed to have been approved. Approval of the report does not imply recognition either of its regularity, or of the authenticity, completeness or correctness of the declarations or information enclosed.

Where the Contracting Authority requests a new report because the one previously submitted has been rejected, this shall be submitted within the period of time indicated in the Special Conditions. The new report shall likewise be subject to the above provisions.

2.4.4. Payment currency and costs:

Payments are executed in the currency of the contract.

Costs of the transfer are borne in the following way:

- costs of dispatch charged by the bank of the Contacting authority are borne by the Contacting authority,
- cost of receipt charged by the bank of the Contractor are borne by the Contractor,
- all costs of repeated transfer caused by one of the parties are borne by the party who caused repetition of the transfer

ARTICLE 2.5- GENERAL PROVISIONS CONCERNING PAYMENTS

2.5.1 Payments shall be deemed to have been made on the date on which the Contracting Authority's account is debited.

2.5.2 The payment periods referred to in Article 1.4 may be suspended by the Contracting Authority at any time if it informs the Contractor that his payment request is

not admissible, either because the amount is not due or because the necessary supporting documents have not been properly produced. In case of doubt about the eligibility of the expenditure indicated in the payment request, the Contracting Authority may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

The Contracting Authority shall notify the Contractor accordingly. Suspension shall take effect from the date of dispatch of the notification. The remainder of the period referred to in Article 1.4 shall begin to run again once the suspension has been lifted.

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

ARTICLE 2.6- RECOVERY

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

2.6.2 In the event of failure to pay by the deadline specified in the request for reimbursement, the sum due shall bear interest at the rate indicated in Article 2.5.3. Interest shall be payable from the calendar day following the expiry of the due date up to the calendar day on which the debt is repaid in full.

2.6.3 In the event of failure to pay by the deadline specified in the request for reimbursement, the Contracting Authority may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on the Union or the European Atomic Energy Community that is certain, of a fixed amount and due. The Contracting Authority may also claim against the guarantee, where provided for.

ARTICLE 2.7- REIMBURSEMENTS

2.7.1 Where provided by the Special Conditions or by Annex I, the Contacting 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.

2.7.2 Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.

2.7.3 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;

d) travel outside Union territory shall be reimbursed under the general conditions stated above provided the Contacting authority has given its prior written agreement.

2.7.4 Subsistence expenses shall be reimbursed on the basis of a daily allowance as follows:

a) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;

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

c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including accommodation, meals, local transport, insurance and sundries;

d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article 1.3.

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

ARTICLE 2.8- OWNERSHIP OF THE RESULTS - INTELLECTUAL AND INDUSTRIAL PROPERTY

Any results or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the Contract, shall be owned solely by the Contracting Authority, which may use, publish, assign or transfer them as it sees fit,

without geographical or other limitation, except where industrial or intellectual property rights exist prior to the Contract being entered into.

ARTICLE 2.9- CONFIDENTIALITY

2.9.1 The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.

2.9.2 The Contractor shall obtain from all the members of its staff and its administrative and management bodies a written undertaking to respect the confidential nature of any information connected, directly or indirectly, with the execution of the contract and not to divulge to third parties or to use for their personal benefit or that of third parties any document or information which has not been made public, even after the contract has been completed. A copy of these written undertakings shall be communicated to the Contracting Authority, where it so requests.

ARTICLE 2.10- USE, DISTRIBUTION AND PUBLICATION OF INFORMATION

2.10.1 The Contractor shall authorise the Contracting Authority to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article 1.8 shall apply.

2.10.2 Unless otherwise provided by the Special Conditions, the Contracting Authority shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the Contracting Authority.

2.10.3 Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from the Contracting Authority and shall mention the amount paid by the European Union. It shall state that the opinions expressed are those of the Contractor only and do not represent the Contracting Authority's official position.

2.10.4 The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the Contracting Authority has specifically given prior written authorisation to the contrary.

ARTICLE 2.11- TAXATION

2.11.1 The Contractor shall have sole responsibility for compliance with the tax laws which apply to the Contractor. Failure to comply shall make the relevant invoices invalid.

2.11.2 The Contractor recognises that the Contracting Authority is, as a rule, exempt from all taxes and duties, including value-added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.

2.11.3 The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.

2.11.4 Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

ARTICLE 2.12- FORCE MAJEURE AFFECTING THE CONTRACT

2.12.1 Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, and which was not due to error or negligence on their part or on the part of a subcontractor and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.

2.12.2 Without prejudice to the provisions of Article 2.1.8, if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.

2.12.3 Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration for the goods actually delivered and any service provided.

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

ARTICLE 2.13- SUBCONTRACTING

2.13.1 The Contractor shall not subcontract without prior written authorisation from the Contracting Authority nor cause the Contract to be performed in fact by third parties.

2.13.2 Even where the Contracting Authority authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Contracting Authority under the Contract and shall bear exclusive liability for proper performance of the Contract.

2.13.3 The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the Contracting Authority is entitled by virtue of the Contract, notably Article 2.17.

ARTICLE 2.14- ASSIGNMENT

2.14.1 The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Contracting Authority.

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

ARTICLE 2.15- TERMINATION BY THE CONTRACTING AUTHORITY

2.15.1 The Contracting Authority may terminate the Contract in the following circumstances**:**

a) where the Contractor is being wound up, is having his 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) where the Contractor has been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;

c) where the Contractor has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;

d) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;

e) where the Contracting Authority seriously suspects that the Contractor is guilty of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union' financial interests;

f) where the Contractor is in breach of his obligations under Article 2.3;

g) where the Contractor was guilty of misrepresentation in supplying the information required by the Contracting Authority as a condition of participation in the Contract procedure or failed to supply this information;

h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Contracting Authority's opinion, have a significant effect on the performance of the Contract;

i) where execution of the tasks has not actually commenced within fifteen days of the date provided for, and the new date proposed, if any, is considered unacceptable by the Contracting Authority;

j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;

k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

2.15.2 In the event of force majeure, notified in accordance with Article 2.12, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period laid down in Article 1.2.3

2.15.3 Prior to termination under point c), d), e), h) or k), the Contractor shall be given the opportunity to submit his observations.

Termination shall take effect on the date on which a registered letter with acknowledgment of receipt terminating the Contract is received by the Contractor, or on any other date indicated in the letter of termination.

2.15.4 Consequences of termination

In the event of the Contracting Authority terminating the Contract in accordance with this Article and without prejudice to any other measures provided for in the Contract, the Contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the goods supplied and related services rendered up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

The Contracting Authority may claim compensation for any damage suffered and recover any sums paid to the Contractor under the Contract.

On termination the Contracting Authority may engage any other contractor to supply the goods and/or to execute or complete the services. The Contracting Authority shall be entitled to claim from the Contractor all extra costs incurred in doing so, without prejudice to any other rights or guarantees it has under the Contract.

ARTICLE 2.15A- SUBSTANTIAL ERRORS, IRREGULARITIES AND FRAUD ATTRIBUTABLE TO THE CONTRACTOR

Where, after the award of the Contract, the award procedure or the performance of the Contract prove to have been subject to substantial errors, irregularities or fraud, and where such errors, irregularities or fraud are attributable to the Contractor, the Contracting Authority may refuse to make payments, may recover amounts already paid or may terminate all the contracts concluded with the Contractor, in proportion to the seriousness of the errors, irregularities of fraud.

ARTICLE 2.16- LIQUIDATED DAMAGES

2.16.1 Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the Contracting Authority's right to terminate the Contract, the Contracting Authority may decide to impose liquidated damages of 0.2% of the amount specified in article 1.3.1 per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgment of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the Contracting Authority within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion. The Contracting Authority and the Contractor 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 that may be reasonably anticipated from such failure to perform obligations.

ARTICLE 2.17- CHECKS AND AUDITS

2.17.1 Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European The Union, the European Court of Auditors is empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the European The Union from signature of the Contract up to five years after payment of the balance.

2.17.2 The Contracting Authority or an outside body of its choice shall have the same rights as the European Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to five years after payment of the balance.

2.17.3 In addition, the European Anti-Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance.

ARTICLE 2.18- AMENDMENTS

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

ARTICLE 2.19- SUSPENSION OF THE CONTRACT

Without prejudice to the Contracting Authority's right to terminate the Contract, the Contracting Authority may at any time and for any reason suspend performance of the Contract or any part thereof. Suspension shall take effect on the day the Contractor receives notification by registered letter with acknowledgment of receipt or equivalent, or at a later date where the notification so provides. The Contracting Authority may at any time following suspension give notice to the Contractor to resume performance of the Contract. The Contractor shall not be entitled to claim compensation on account of suspension of the Contract or of part thereof.

SIGNATURES

For the Contractor,	For the Contracting Authority,
signature[s]: _____	signature[s]:_____
Done at _____ date:_____	Done at Vienna date:_____

In duplicate in English.

ANNEX I

Tender and Technical Specifications, including clarifications during tendering

ANNEX II

Contractor's Tender, including clarifications during evaluation of the tender

ANNEX III

Bank Identification Form and Legal Entities File

ANNEX IV

Certificate of Conformity/Task Acceptance Form

ANNEX V

Power of Attorney