

DIRECT SERVICE CONTRACT- GSA/NP/37/18- 'Aviation DFMC SBAS Receiver Prototype (second source)'

The European GNSS Agency (hereinafter referred to as 'the GSA' or 'the Contracting Authority'), represented for the purposes of the signature of this contract (hereinafter referred to as 'the Contract') by Mr Carlo des Dorides, Executive Director of the GSA,

on the one part, and

[full official name]

[official legal form]

[statutory registration number]

[full official address]

[VAT registration number]

(Hereinafter referred to as the 'Contractor'), represented for the purposes of the signature of this Contract by *[forename, surname and function,]*

[The parties identified above and hereinafter collectively referred to as the 'Contractor' shall be jointly and severally liable vis-à-vis the GSA for the performance of this Contract.]

on the other part,

HAVE AGREED

to the **special conditions**, the **general conditions** and the following annexes:

- Annex I** – Tender specifications and the annexes thereto (reference No GSA/NP/37/18 V. 1 of 21/09/2018);
- Annex II** – Contractor's tender (reference No [complete] of [insert date]);
- Annex III** – Declaration of background intellectual property rights;
- Annex IV** – Template declaration of foreground intellectual property rights;
- Annex V** – Template of deliverable/supply acceptance sheet;
- Annex VI** – Template of financial guarantee;
- Annex VII** – Template of declaration on confidentiality and absence of conflict of interests;

which form an integral part of this Contract.

- In case of any discrepancies with respect to the wording of this Contract, the following rules shall apply: 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 and their annexes thereto (Annex I), shall take precedence over those in the Contractor's tender (Annex II).

Subject to the above, the several instruments forming part of the 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 Agency, subject to Article I.7.2, should it dispute any such instruction.

I – SPECIAL CONDITIONS

ARTICLE I.1 – SUBJECT MATTER

- I.1.1** The subject matter of the Contract is to design, develop and test a prototype of the DFMC (Dual Frequency Multi Constellation) SBAS (Satellite Based Augmentation System) receiver for the aviation SoL (Safety of Life) service, augmenting GPS and Galileo capabilities as described in the tender specifications – Annex I and its annexes.
- I.1.2** GSA's contractual relationship commences only upon signature of the Contract with the successful tenderer. The Contractor shall execute the tasks assigned to it in accordance with the tender specifications annexed to the Contract (Annex I).

ARTICLE I.2 – ENTRY INTO FORCE AND DURATION

- I.2.1** The Contract shall enter into force on the date on which it is signed by the last party.
- I.2.2** Under no circumstances may performance commence before the date on which the Contract enters into force.
- I.2.3** The duration of the Contract shall be 30 (thirty) months, from the date on which the Contract enters into force. Unless otherwise specified, all periods specified in the Contract are calculated in calendar days.

The execution of the tasks within the Work Packages of the Contract shall be organised to comply with the milestones as detailed under section 2.3 of the tender specifications (Annex I).

Unless communicated otherwise by the GSA in writing, the Contractor shall be authorised to continue the execution of the tasks for the next milestone of the related Work Package task only upon written consent of the GSA following formal acceptance of the preceding milestone objective and the corresponding deliverables (section 2.4 of the tender specifications (Annex I)) in accordance with the procedure described in section 2.5 of the tender specifications (Annex I).

- I.2.4** Unless otherwise stated by the GSA during the execution of the Contract, the deliverables and supplies to be delivered under the Contract shall be delivered and installed at GSA premises, DDP Prague Incoterms 2010, to the following address:

European GNSS Agency
Janovskeho 438/2
170 00 Prague 7
Holesovice, Czech Republic

The Contractor shall notify the GSA of the exact date of delivery at least 10 (ten) days in advance.



ARTICLE I.3 – PRICE

I.3.1 The maximum total amount to be paid by the GSA under the Contract shall be EUR [amount in figures] **EUR** ([amount in words] euro) covering the execution of all tasks, and the delivery of all related supplies.

The above total amount is fixed and firm and includes all costs and expenses for the fulfilment of the Contract.

Costs and expenses are: effort for all the tasks (including drawing up quotations and reports) necessary for their performance, including all costs (management of the project, coordination, quality control, support resources, missions with associated travel expenses (if any), subcontracting, procurement, manufacturing, assembly, documentation, storage, transportation, etc.), all overheads (management of the firm, secretarial services, social security, wages, etc.) and all cost necessary for the performance of the tasks described, incurred directly and indirectly by the Contractor in performance of the tasks that will be entrusted to him.

ARTICLE I.4 – PAYMENT ARRANGEMENTS [SUBJECT TO NEGOTIATIONS]

I.4.1 Pre-financing

[not applicable]

I.4.2 Interim payments

I.4.2.1 Following a Kick Off Meeting (T0) and receipt by the GSA of the deliverables defined in Annex I, the Contractor shall submit an invoice for an interim payment of EUR [*amount in figures and in words*] equal to 10% (ten per cent) of the maximum total amount referred to in Article I.3.1.

I.4.2.2 Upon acceptance of all the deliverables subject to the Preliminary Design Review ('PDR') by the GSA before and at a period of 8 (eight) months following the Kick Off Meeting, the Contractor shall submit an invoice for an interim payment of EUR [amount in figures and in words] equal to 15% (fifteen per cent) of the maximum total amount referred to in Article I.3.1.

I.4.2.3 Upon acceptance of all the deliverables subject to the Test Readiness Review ('TRR') by the GSA before and at a period of 16 (sixteen) months following the PDR completion, the Contractor shall submit an invoice for an interim payment of EUR [amount in figures and in words] equal to 25% (twenty five per cent) of the total amount referred to in Article I.3.1.

I.4.2.4 Upon acceptance of all the deliverables subject to the Acceptance Review ('AR') by the GSA before and at a period of 4 (four) months following the TRR completion, the Contractor shall submit an invoice for an interim payment of EUR [amount in figures and in words] equal to 25% (twenty five per cent) of the total amount referred to in Article I.3.1.

I.4.2.5 Invoices for interim payments shall indicate the reference number of the Contract to which it refers. Each invoice shall be accompanied by the relevant deliverable/supply acceptance sheet



duly signed and dated by the GSA's project officer and the Contractor, as per the template of Annex V, and a progress report, in accordance with the conditions set forth in the tender specifications (Annex I).

Provided the progress report and the deliverable/supply acceptance sheet have been approved, the GSA shall make the payment within 60 (sixty) days from receipt of the invoice.

I.4.3 Payment of the balance

Upon acceptance of all the deliverables subject to the Final Review ('FRW') by the GSA, the Contractor shall submit an invoice for payment of the balance.

The invoice shall indicate the reference number of the Contract to which it refers. It shall be accompanied by the relevant deliverable/supply acceptance sheet duly signed and dated by the GSA's project officer and the Contractor, as per the template of Annex V, and a final progress report, in accordance with the conditions set forth in the tender specifications (Annex I).

Provided the final progress report and the deliverable/supply acceptance sheet have been approved, the GSA shall make the payment within 60 (sixty) days from receipt of the invoice.

[Article I.4.1 to I.4.3 shall be updated before signature of the Contract to reflect the payment plan for the successful tenderer.]

I.4.4 Electronic submission of invoices

All invoices shall be issued electronically to finance@gsa.europa.eu.

ARTICLE I.5 – BANK ACCOUNT

Payments shall be made to the Contractor's bank account denominated in euro, identified as follows:

Name of bank:
Full address of branch:
Exact designation of account holder:
Full account number including [bank] codes:
IBAN code:

ARTICLE I.6 – COMMUNICATION DETAILS AND DATA CONTROLLER

For the purpose of Article II.6, the data controller shall be Executive Director of the GSA.

Communications shall be sent to the following addresses:

GSA:
Project officer:
Name:
Surname:
Email: [insert]@gsa.europa.eu
Telephone number:

European GNSS Agency
Security Department – PRS

Attention:
Janovskeho 438/2
170 00 Prague
Czech Republic

Contract officer:
Legal and Procurement Department

European GNSS Agency
Attention:
Janovskeho 438/2
170 00 Prague
Czech Republic
Email: contracts@gsa.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 European Union law, complemented, where necessary, by the law of Belgium.
- I.7.2.** Any dispute between the parties in relation to the interpretation, application or validity of the Contract which cannot be settled amicably shall be brought before the courts of Brussels, Belgium.

ARTICLE I.8 – USE AND EXPLOITATION OF THE RESULTS OF THE CONTRACT **[SUBJECT TO NEGOTIATIONS]**

- I.8.1** This Article I.8 fully replaces Article II.10.
- I.8.2** For the purpose of this contract, the term

(1) "IPR" shall have the meaning stated in Clause 2 of the Convention establishing the World Intellectual Property Organisation done in Stockholm on 14 July 1967 and in particular "intellectual property" shall include the rights relating to:

- literary, artistic and scientific works;
- performances of performing artists, phonograms, and broadcasts;
- inventions in all fields of human endeavour;



- scientific discoveries;
- industrial designs;
- trademarks, service marks, and commercial names and designations;
- protection against unfair competition; and
- all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

(2) "Affiliates/Affiliated" shall mean any legal entity which is directly or indirectly controlling, controlled by or under common control of the Contractor provided that (i) such entity shall be considered an Affiliate only for the time during which such control exists and (ii) for the purpose of this definition "control" shall be constituted in case any of the following applies to either the legal entity or the Contractor in relation to each other: (a) holding, whether directly or indirectly, a majority of the voting rights, (b) holding, whether directly or indirectly, more than 50% (fifty per cent) of the share capital, (c) having the right to appoint or remove a majority of the members of the board of directors or other management body, (d) having, by agreement, the right to exercise a dominant influence or majority of the voting rights.

(3) "Contractor Parties" shall mean subcontractors at any tier and Affiliates to the Contractor and companies to which the Contractor is Affiliated.

(4) "Results" shall mean any tangible or intangible output, such as data, knowledge and information whatever their form or nature, whether or not they can be protected, stemming from the execution of the Contract which are generated by the Contractor and the Contractor Parties under the Contract, as well as any attached rights, and including IPR. Where IPR is concerned, this definition comprises all phases and stages of development and includes also rights relating to modifications of and add-ons to the subject-matter of Results, as well as modifications of and add-ons to the subject-matter of Background IPR made by the Contractor and the Contractor Parties in the frame of this Contract.

(5) "Background IPR" shall mean IPR, including third parties' IPR obtained prior to the execution or developed outside the frame of the present Contract by the Contractor, the Contractor Parties or a third party, that is needed to implement the Contract or exploit the Results. A "need" in the aforementioned sense is considered, if, without the relevant rights of access and/or use, the exploitation of the Results would be technically or legally impossible, impaired or incomplete.

(6) "Testing Background IPR" shall mean the Background IPR required exclusively for completion of any of the following tasks/subtasks under the tender specifications – Annex I and its annexes:

- Development of Testing Tools (sub-task of Task 2),
- Software/Hardware Integration and Verification Test in laboratory (sub-task of Task 2), and
- Trials (Task 3).

1.8.3 Ownership of all Results shall be exclusively vested in the European Union, represented by the European Commission, immediately upon their acceptance by the GSA or, in the case



of IPR, from the moment of its generation. Documentation or software generated by the Contractor or the Contractor Parties under the Contract shall be immediately marked "EU Proprietary information. Unauthorised distribution, dissemination or disclosure not allowed."

- 1.8.4** All Background IPR shall be declared by the Contractor as per Annex III as soon as the Contractor is aware of the need, in the sense defined in Article 1.8.2 paragraph (5), to use such Background IPR and, in any case, not later than the start of the implementation of the relevant part of the Contract.
- 1.8.5** The Contractor shall take all necessary measures for establishing the ownership requirement under Article 1.8.3, including, where inventions are concerned, patentability requirements, and for this purpose shall transfer all Results to the European Union in a format allowing the unfettered use of the Results. This shall include the obligation of the Contractor to guarantee that all items, in both tangible or intangible form, stemming from this Contract, include all necessary licences for the unfettered use of the Results.
- 1.8.6** The Contractor, without prejudice to any limitations resulting from Article 1.8.10, shall provide or, in case of Background IPR owned by a third party, shall ensure that the third-party provides to the European Union, the GSA, its institutional assignees, or institutional licensees (i) a cost-free, perpetual and transferable licence to access and use the Background IPR, other than the Testing Background IPR, for the use of Results for institutional purposes, and (ii) a cost-free licence to access and use the Testing Background IPR for the duration of this Contract, for the purpose of carrying out testing and trial tasks under this Contract. Where Commercial Off-The-Shelf (COTS) products are concerned and the standard licence terms of the third-party vendor apply, such licence shall grant to the European Union/GSA the right and licence to use such COTS products for the purpose of this Contract, excluding any rights of sub-licence. In the frame of this Contract, institutional purposes shall mean any purpose related to standardisation, the development, operation, maintenance, service provision of European GNSS Programmes. The licence for the Background IPRs shall not include the right to grant sublicenses on the Background IPR for any non-institutional or commercial exploitation purposes.
- 1.8.7** The Contractor and the Contractor Parties shall obtain a non-transferable, non-sublicensable, perpetual, unrestricted, free of charge, non-exclusive right to use the Results, which however may be revoked with immediate effect following the GSA's or the European Commission's written notice should the Contractor fail to comply with its obligations under Article 1.8.3 to 1.8.6, 1.8.8 and 1.8.9. The GSA shall not provide the Contractor with any representation or warranties in respect of the use of the Results and the Contractor shall have no claim whatsoever against the European Union, the GSA or its institutional assignees arising out of the use of the Results.
- 1.8.8** Upon request of the European Union, represented by the European Commission, the GSA or third parties, the Contractor shall be obliged to grant licence for access and use of Background IPR, other than the Testing Background IPR, whenever this use is required for the commercial exploitation of the Results, under fair, equal, and reasonable market terms and conditions. Upon receiving such request for licence of Background IPR (other than the Testing Background IPR), the Contractor shall, without delay, forward to the GSA (or the respective third party if so requested by the GSA) the terms and conditions the Contractor proposes to apply to the licence requested. Should such proposed terms and conditions not be compatible with the criteria indicated above, the GSA shall be entitled to revoke

the Contractor's licence to use the Results, according to Article I.8.7 – without this revocation entitling the Contractor to any indemnity.

- I.8.9** The Contractor shall hold the European Union, its assignees, and licensees free and harmless of any claims for infringement of third party rights in connection with the use of Background IPR within the licensed scope according to Article I.8.6 and Article I.8.8., which the Contractor was or should have been reasonably aware of at the time of granting the licence.
- I.8.10** Should access to Background IPR involve a security concern, or a non-disclosure agreement which was entered into prior to starting the implementation of the relevant part of the Contract, the Parties shall put a specific non-disclosure agreement in place to cover the confidentiality of this Background IPR. In case of security concerns, such non-disclosure agreement shall involve the relevant National Security Authority to agree on the policy of use, terms and conditions for the management of the sensitive Background IPR. The Contractor shall apply all efforts towards solving security concerns in a way as not to unduly prevent the said access.
- I.8.11** Notwithstanding the European Union's or its assignee's rights under Article I.8.3 and I.8.5, the Contractor shall use the template in Annex IV to the Contract to declare any Results and bring such declaration to the GSA's attention. The Contractor shall present relevant and exhaustive evidence about the acquisition of ownership or, where applicable, licence to use all the necessary Background IPRs together with presentation of Results, whenever relevant for their use in accordance with this Article I.8.

[Article I.8.3 may be updated before signature of the Contract to reflect the IPR licensing terms and dissemination plan for the successful tenderer. For avoidance of doubt such licensing terms shall grant no exclusivity to the Contractor on the IPRs created as result of the Contract].

ARTICLE I.9 COMPLIANCE WITH MINIMUM REQUIREMENTS

When implementing the Contract, the Contractor shall at all times ensure full compliance with the minimum requirements as laid down in **section 2.7 of Annex I**. In case of failure of such compliance, the contractor shall be considered in breach of a substantial contractual obligation in the sense of **Article II.14.1 (c)**.

ARTICLE I.10 LIABILITY

Without prejudice to the other provisions of Article II.3, the liability of the Contractor towards the GSA under the first sentence of Article II.3.3 shall be limited to 130% of the total value of the Contract.

SIGNATURES

For the Contractor,

For the GSA,

[Company name/forename/surname/function]

[forename/surname/function]

signature[s]: _____

signature[s]: _____

Done in [Prague], [date]

Done in [Prague], [date]

In duplicate in English.

II – GENERAL CONDITIONS

ARTICLE II.1 – PERFORMANCE OF THE CONTRACT

II.1.1 Delivery of supplies

(a) Date, time and place of delivery

The Contracting Authority shall be notified in writing of the exact date of delivery and installation of supplies within the period indicated in Article I.2. All deliveries of supplies shall be made at the agreed place of delivery during the hours agreed between the Contracting Authority and the Contractor.

The Contractor shall bear all costs and risks involved in delivering and installing the supplies to the place of delivery.

(b) Consignment note

Each delivery and/or installation of supplies shall be accompanied by a consignment note in duplicate, duly signed and dated by the Contractor, or its carrier if applicable, giving the contract number and particulars of the supplies delivered and/or installed. One copy of the consignment note shall be countersigned by the Contracting Authority and returned to the Contractor or to its carrier.

Signature of the consignment note by the Contracting Authority, as provided for in point (b) of Article II.1.1 is simply an acknowledgment of the fact that the delivery and/or installation of supplies took place and in no way implies conformity of the supplies with this Contract.

II.1.2 Certificate of acceptance of deliverables or supplies

Acceptance of deliverables or supplies shall be evidenced by the signature of a deliverable/supply acceptance sheet (Annex V) to this effect by the Contracting Authority. Acceptance or rejection shall be notified by the Contracting Authority to the Contractor no later than 30 (thirty) days after the date of delivery and installation of supplies, and no later than 45 (forty-five) days after the date of submission of deliverables, unless otherwise specified in the special conditions or in the tender specifications (Annex I).

Acceptance shall be declared only where the conditions laid down in the Contract are satisfied and the deliverables or supplies conform to the tender specifications (Annex I).

Where, for reasons attributable to the Contractor, the Contracting Authority is unable to accept the deliverables or supplies, the Contractor shall be notified in writing at the latest by the deadline for acceptance.

II.1.3 Conformity of the supplies delivered with the Contract

(a) The supplies delivered by the Contractor to the Contracting Authority must be in conformity in quantity, quality, price and packaging with this Contract.

(b) The supplies delivered must:

- (i) correspond to the description given in the tender specifications (Annex I) and the Contractor's tender (Annex II);

- (ii) be fit for any specific purpose required of them by the Contracting Authority and made known to the Contractor at the time of conclusion of this Contract and accepted by the Contractor;
- (iii) unless specific purpose is required by the Contracting Authority, be fit for the purposes for which supplies of the same type are normally used;
- (iv) unless specific quality or performance are required by the Contracting Authority, demonstrate the quality and performance which are normal in supplies of the same type and which the Contracting Authority can reasonably expect, given the nature of the supplies and taking into account any public statements on the specific characteristics of the supplies made by the Contractor, the producer or its representative, particularly in advertising or on labelling;
- (v) be packaged according to the usual method for supplies of the same type or, failing this, in a way designed to preserve and protect them.

II.1.4 Remedy

- (a) The Contractor shall be liable to the Contracting Authority for any lack of conformity which exists at the time the deliverables or supplies are verified.
- (b) In case of lack of conformity or rejection of supplies, without prejudice to Article II.11 regarding liquidated damages applicable to the total price of the Contract, the Contracting Authority shall be entitled:
 - (i) either to have the supplies brought into conformity, free of charge, by repair or replacement;
 - (ii) or to have an appropriate reduction made in the price.

Any repair or replacement of supplies shall be completed within a reasonable time and without any significant inconvenience to the Contracting Authority, taking into account the nature of the supplies and the purpose for which they are required by the Contracting Authority.

- (c) In case of lack of conformity or rejection of deliverables, the Contracting Authority shall be entitled to have additional information, corrections or other documents submitted by the Contractor within 15 (fifteen) days from the date of receipt by the Contractor of the notification of rejection.
- (d) The term 'free of charge' in point (b) refers to the costs incurred to bring the deliverables or supplies into conformity, particularly the cost of postage, labour and materials.

II.1.5 Installation and services provided to supplies

The Contractor shall install the supplies delivered within a period of one month after delivery, in accordance with the conditions set forth in the tender specifications (Annex I).

Any lack of conformity resulting from incorrect installation of the supplies delivered shall be deemed to be equivalent to lack of conformity of the supplies as installation of the supplies form part of this contract and the supplies are installed by the Contractor or under its responsibility. This shall apply equally if the supply was to be installed by the Contracting Authority and was incorrectly installed owing to a shortcoming in the installation instructions.

As required by the tender specifications (Annex I), all other services to supplies shall be provided accordingly.

II.1.6 General provisions concerning supplies

(a) Packaging

The supplies shall be packaged in strong boxes or crates or in any other way that ensures that the contents remain intact and prevents damage or deterioration. Packaging, pallets, etc., including contents, shall not weigh more than 500 kg.

Unless otherwise specified in the special conditions or in the tender specifications (Annex I), pallets shall be considered as one-way packaging and shall not be returned. Each box shall be clearly labelled with the following information:

- (i) name of the Contracting Authority and address for delivery;
- (ii) name of Contractor;
- (iii) description of contents;
- (iv) date of delivery;
- (v) EC code number of article.

(b) Guarantee

The supplies shall be guaranteed against all defects in manufacture or materials for 2 (two) years from the date of the Acceptance Review ("AR").

The Contractor shall guarantee that any permits and licences required for manufacturing and selling the supplies have been obtained.

The Contractor shall replace at its own expense, within a reasonable time limit to be determined by agreement between the parties, any items which become damaged or defective in the course of normal use during the guarantee period.

The Contractor is responsible for any conformity defect which exists at the time of delivery and installation of the supplies, even if this defect does not appear until a later date.

The Contractor is also responsible for any conformity defect which occurs after delivery and installation, and is ascribable to non-compliance with its obligations, including failure to provide a guarantee that, for a certain period, supplies used for the purposes for which they are normally used or for a specific purpose will preserve their qualities or characteristics as specified.

If part of an item is replaced, the replacement part shall be guaranteed under the same terms and conditions for a further period of the same duration as that specified above.

If a defect is found to originate in a systematic flaw in design, the Contractor must replace or modify all identical parts incorporated in the other supplies that are part of the Contract, even though they may not have been the cause of any incident. In this case, the guarantee period shall be extended as stated above.

II.1.7 General provisions on the performance of the Contract



- (a) The Contractor shall perform the Contract to the highest professional standards.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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:

- (i) personnel executing the tasks assigned to the Contractor may not be given orders directly by the Contracting Authority;
 - (ii) the Contracting Authority may not under any circumstances be considered to be the employer of the personnel referred to in point (i) 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.
- (g) 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.
- (h) 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.
- (i) 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 European Union and the GSA 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 INTERESTS

- 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 consent 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 concerned 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 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 European 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 any contractual obligations 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

Any results or rights thereon, including copyright and other intellectual property rights, obtained in performance of the Contract, shall be owned solely by European Union, which may use, modify, publish, assign or transfer them as it sees fit, without geographical or other limitation.

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 Final Review ('FRW'), as defined in Table 9 in the tender specifications (Annex I), not be successfully performed within the time-limits set by and in accordance with such tender specifications, 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:

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

V is the amount specified in Article I.3.1;

d is the duration between the Kick Off Meeting and the date of the FR specified in section 2.3.1 of the tender specifications, 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 FOR CAUSE

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 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 European 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 (thirty) days from receipt of the notification.

If the Contracting Authority does not confirm acceptance of these observations by giving written approval within 30 (thirty) 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 (sixty) days from the date on which termination takes effect 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 currency of this Contract shall be euro.

Payments shall be executed in euro 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 (sixty) 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 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 2 (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 European 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.15.2.

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 the 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 European Union, or by the European Atomic Energy Community, or the GSA, or by calling in the financial guarantee, where provided for in Article I.4.

ARTICLE 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 their own staff or by any other outside body authorised to do so on their behalf.

Such checks and audits may be initiated during the performance of the Contract and during a period of 5 (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 5 (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 (thirty) days following the date of receipt to submit observations. The final report shall be sent to the Contractor within 60 (sixty) 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 European 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 European Union law for the protection of the financial interests of the European 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.

Annex I – Tender specifications (reference No GSA/N/37/18 [rev XX of DD MONTH 2018])**(Separate numbering of pages)**

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

(Separate numbering of pages)

Annex III – Declaration of background intellectual property rights

(Separate numbering of pages)

Annex IV – Template declaration of foreground intellectual property rights

(Separate numbering of pages)

Annex V – Template of deliverable/supply acceptance sheet

Service contract reference: GSA/NP/37/18 – Aviation DFMC SBAS Receiver Prototype

Reference of task/deliverable/supply	Due date (Annex I to the Contract)	Actual delivery date	Format/manner of delivery	Price of deliverable/supply
<i>Fill in</i>				

For the Contractor:

I hereby certify that the task(s), deliverable(s) and supplies listed above have been completed according to the terms and conditions of the above-mentioned contract and submitted to the GSA.	
Name	
Position	
Signature	
Date	

For the GSA:

I hereby certify that the task(s), deliverable(s) and supplies listed above have been completed according to the terms and conditions of the above-mentioned contract, received and accepted by the GSA.	
Name	
Position	
Signature	
Date	

Annex VI – Template of financial guarantee

(Separate numbering of pages)

Annex VII – Template of declaration on confidentiality and absence of conflict of interests**(Separate numbering of pages)**