



Court of Justice of the European Union  
LIBRARY, RESEARCH AND DOCUMENTATION DIRECTORATE GENERAL (DG)  
Library Directorate  
Library Resources Unit

## **SUPPLY FRAMEWORK CONTRACT**

FRAMEWORK CONTRACT NUMBER – *[complete]*

The European Union (hereinafter referred to as ‘the Union’), represented by the Court of Justice of the European Union (hereinafter referred to as ‘the Court of Justice’), itself represented for the purposes of the signature of this contract by Rüdiger Stotz, Director General of Library, Research and Documentation,

On the one part, and

*[full official name]*

*[official legal form]*<sup>1</sup>

*[statutory registration number]*<sup>2</sup>

*[full official address]*

*[VAT registration number]*

(hereinafter referred to as ‘the contractor’), represented for the purposes of the signature of this framework contract by *[forename, surname and position,]*

On the other part,

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<sup>1</sup> Delete if contractor is a natural person or a body governed by public law.

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

HAVE AGREED

to the **special conditions**, the **general conditions for supply framework contracts**, the **Model Specific Contract** and the following annexes :

**Annex I** Model Specific Contract

**Annex II** Tender specifications (reference No [complete] of [date])

**Annex III** Contractor's tender (reference No [complete] of [date])

[other annexes]

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

- The terms set out in the special conditions shall take precedence over those in the other parts of the FWC.
- The terms set out in the general conditions shall take precedence over those in the model Specific Contract.
- The terms set out in the model Specific Contract shall take precedence over those in the other annexes.
- The terms set out in the tender specifications (Annex II) shall take precedence over those in the tender (Annex III).
- The terms set out in the FWC shall take precedence over those in the Specific Contracts.

Subject to the above, the various documents making up this contract are to be taken as mutually explanatory. Any ambiguity or divergence within the same part or between different parts shall be explained and corrected by written instruction from the Court of Justice, without prejudice to the rights referred to in Article I.9 if the contractor disputes that instruction.

## **I – SPECIAL CONDITIONS**

### **ARTICLE I.1 – SUBJECT MATTER**

- I.1.1** The subject matter of the FWC is the supply of subscriptions permitting access to the contents of specialised periodicals, excluding the general daily press, in paper format or in paper and electronic formats and associated services.
- I.1.2** Signature of the FWC imposes no obligation on the contracting authority to purchase. Only performance of the FWC through Specific Contracts is binding on the contracting authority.
- I.1.3** The contractor is selected for a multiple FWC in cascade:
- in [first] position for lot(s) [XX],
  - in [second] position for lot(s) [XX],
  - in [third] position for lot(s) [XX].

### **ARTICLE I.2 – ENTRY INTO FORCE AND DURATION**

- I.2.1** The FWC shall enter into force as from 1 September 2017 if the two contracting parties have previously signed it or as from the date of signature by the second party if that date is after 1 September 2017.
- I.2.2** Under no circumstances may performance commence before the date on which the FWC enters into force. Delivery of supplies may under no circumstances begin before the date on which the Specific Contract enters into force.
- I.2.3** The FWC is concluded for a period of 12 months with effect from the date on which it enters into force. Unless otherwise specified, all periods specified in the FWC are calculated in calendar days.
- I.2.4** The Specific Contracts shall be returned signed by both parties before the FWC expires.
- The FWC shall continue to apply to such Specific Contracts after its expiry. They shall be executed no later than 12 months after its expiry.
- I.2.5** The FWC shall be renewed automatically up to two (2) times under the same conditions, unless written notification to the contrary is sent by one of the parties and received by the other six months before expiry of the period indicated in Article I.2.3. Renewal does not imply any modification or deferment of existing obligations.

### **ARTICLE I.3 – MAXIMUM AMOUNT OF THE FRAMEWORK CONTRACT AND PRICES**

- I.3.1** The maximum amount of the FWC shall be
- [amount in figures and in words per lots] euros for lot 1
  - [amount in figures and in words per lots] euros for lot 2.

for the entire duration of this contract, including renewals. However, this must in no way be construed as a commitment on the contracting authority to purchase for the maximum amount.

**I.3.2** Prices are expressed in euros.

**I.3.3** The prices for current and new subscriptions are to be calculated by applying to the publishers' list prices the percentage stated in Annex III. That percentage may not be revised during the entire duration of the contract.

**I.3.4.** If the contractor charges other customers lower prices for comparable supplies in circumstances equivalent to those defined agreed under this contract, the contractor is obliged to inform the Court of Justice in order to charge similar prices.

#### **ARTICLE I.4 – REVISION OF PRICES**

**I.4.1.** After the first year, the contractor may submit, until 20 November of the year N, a written request for revision of prices to be applied for the year N+1.

**I.4.2.** The revision of prices will be limited to the application of the percentage in relation to the new publisher's list price tendered by the contractor, exclusive of VAT.

**I.4.3.** The contractor shall provide, within the request in writing provided for in section 1.4.1, details of the calculation of the revision of subscription prices and the relevant supporting documents. The Court of Justice will accept the revision of prices after verification of the factors referred to in the request.

**I.4.4.** As from the second year, the Court of Justice may also propose, until 20 November of the year N, the revision of prices taking into consideration any reduction, for the year N+1, in the publisher's list prices. Before adopting a decision on that matter, the Court of Justice will give the contractor the opportunity to submit observations on the supporting documents relied on by the Court.

**I.4.5.** With the agreement of the Court of Justice and on renewal of the contract, the new prices shall apply from the date of the first purchase for the year N+1. Orders shall be placed on the basis of the prices charged on the date of the commencement of the subscription. Those prices shall be fixed for the duration of the order.

#### **ARTICLE I.5 – PAYMENT ARRANGEMENTS AND PERFORMANCE OF THE FRAMEWORK CONTRACT**

##### **I.5.1 Multiple framework contract in cascade**

Orders shall be placed and executed in accordance with Article II.1.1, 'Specific Contracts', of the General Conditions.

When the contracting authority sends a Specific Contract to the contractor, the latter must, within a period of 5 working days from the date of receipt of the Specific Contract, send back to the Court of Justice an original copy of the Specific Contract, duly signed and dated.

The period allowed for the execution of the tasks shall start to run on the date the contractor signs the Specific Contract, unless a different date is indicated on the form.

If the contractor is unavailable, he shall give reasons for refusal within a period of 5 working days and the contracting authority shall be entitled to send the Specific Contract to the next-ranking contractor on the list. If that time limit is not met, the contractor shall be deemed to be unavailable.

If the contractor is deemed to be unavailable or partially available, the Court of Justice shall be entitled to send the Specific Contract for supplies not yet covered to the contractor ranked immediately after the supplier in question, according to the ranking resulting from the call for tenders. The procedure shall commence with the contractor ranked first and shall end with the contractor ranked third (principle of in cascade contract).

A contractor may also be deemed to be unavailable or partially unavailable in the event of:

- a) Non-compliance with the time limits laid down in section III.3 of the tender specifications with respect to the tender of prices for new subscriptions;
- b) force majeure laid down in Article II.10 ;
- c) termination of a Specific Contract.

The inability of contractors to submit a valid proposal shall not be deemed to constitute default under the contract and shall therefore not constitute a ground for terminating the contract, nor for changing the order in which the contractors are ranked.

By way of exception to the preceding paragraph, and without prejudice to the option of imposing an administrative penalty for false statements, in the first year of the FWC, the inability of a contractor to submit a valid proposal for current subscriptions for which that contractor had stated a price in its economic tender may entail the termination of its FWC or alteration of its ranking in the cascade where, if it had submitted that tender without the prices corresponding to those subscriptions, it would not have been awarded the contract or would have been awarded the contract with a different ranking in the cascade, respectively, taking into consideration the award criterion relating to the number of titles.

### **I.5.2 Delivery**

Delivery is to be made in accordance with the instructions of the contracting authority, the tender specifications and Article II.1.2 of the General Conditions 'Delivery'.

Periodicals supplied in paper format are to be delivered to the building of the Court of Justice housing its library, situated in Luxembourg.

The address will be notified on the Specific Contracts and may be amended on the instruction of the Court of Justice.

All deliveries shall be made on any working day between 0900 and 1600 at the place agreed for delivery.

Subscriptions in electronic format shall be delivered according to arrangements to be agreed for individual access.

### **I.5.3. Payment**

To be acceptable, requests for payment must be accompanied by the invoices concerned, referring clearly to:

- the identity of the contractor;
- the reference number of the contract and the Specific Contract of the Court of Justice to which they relate;
- the publication references (classification mark, year of publication, title of the periodical or yearbook) and the format ;
- the purchase number and either the period covered by the subscription, or the issues received that are invoiced ;
- the number of copies ;
- the amount, currency and date ;
- the bank account number stated in this FWC.

The specific contracts must be invoiced separately.

The Court of Justice shall have a period of thirty (30) days from receipt to approve and pay or to reject an invoice. The Court reserves the right to request the contractor to produce, before an invoice is paid, documentary evidence of the purchase from the publisher. The contractor shall have a period of fifteen (15) days to produce such evidence.

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.

## **ARTICLE I.6. – LIABILITY OF THE CONTRACTOR IN THE EVENT OF DELAY OR FAILURE TO DELIVER**

### **I.6.1. Non-compliance with time limits for delivery**

The contractor undertakes to adopt all measures necessary to ensure delivery of issues of ordered periodicals within the time limits fixed in the tender specifications in Annex 1 Technical Specifications, Section 6. ‘Time and places for delivery’.

In the event of delay in the delivery of an issue, the Court of Justice shall send a complaint to the contractor. The contractor must reply to the complaint within a period of 5 working days.

If the issue concerned is not delivered to the Court of Justice in the format that is the subject of the complaint within a period of 15 calendar days from the date of the first complaint, when it has been published before that date, the Court of Justice shall send a second complaint to the contractor. The latter shall be bound to compensate the Court of Justice to the amount of 1% of the price of the issue concerned per calendar day of delay from the date of the second complaint, in accordance with the provisions of Article II.11.

If the issue concerned is not delivered to the Court of Justice in the format that is the subject of the complaint within a period of 15 calendar days from the date of the second complaint, without prejudice to the provision of compensation for delay set out in the preceding paragraph, the Court of Justice may, after giving formal notice to the contractor requiring delivery within an additional period, obtain from a third party the issue that was not delivered. In that case, the contractor must compensate the Court of Justice for the amount of the price, including all costs, paid by the Court of Justice for the issue that was not delivered. The compensation for delay set out in the preceding

paragraph shall be payable until the final day of the additional period for delivery granted to the contractor in the formal notice.

If non-compliance with the time limits for delivery affects more than 25% of the issues of an annual subscription for one and the same periodical, and without prejudice to the application of the measures provided for in the preceding paragraphs, the Court of Justice may terminate the Specific Contract relating to that subscription and demand compensation for all damages caused in accordance with Article II.13.3. That compensation shall include, inter alia, reimbursement of additional costs incurred by the Court of Justice in order to obtain from a third party the issues not delivered by the contracting party, as a consequence of termination of the contract.

If non-compliance with the time limits for delivery affects, wholly or partly, in the course of a year, 10% or more of the subscriptions ordered from a contractor, and without prejudice to the application of the measures provided for in in the preceding paragraphs, the contractor shall be bound to pay to the Court of Justice an indemnity by way of compensation amounting to 5% of the total price paid by the Court of Justice for the subscriptions concerned.

### **I.6.2 Delivery of a defective issue**

In the event of delivery of a defective issue, the Court of Justice shall send a complaint to the contractor. The latter shall be bound to repair the defect at its own expense or to replace the issue within a reasonable period of time. The provisions set out in Article I.6.1 shall apply.

### **I.6.3 Non-publication or late publication of the periodicals**

Non-publication or late publication by the publisher of periodical shall constitute cases of force majeure such as to justify suspension by the contractor of performance of all or part of a Specific Contract, under Article II.12 of the FWC.

In any event, the Court of Justice may terminate the Specific Contract with respect to the issue or issues publication of which has been delayed by more than eight months in relation to the date of delivery specified in the Specific Contract.

## **ARTICLE I.7 – BANK ACCOUNT**

Payments shall be made to the contractor's bank account denominated in the currency laid down in Article I.3.2, identified as follows:

Name of bank:

Full address of branch:

Exact designation of account holder:

Full account number including [bank] codes:

[IBAN<sup>3</sup> code:]

In order to avoid any delay in the payment of the sums due to it, the contractor shall take care to communicate immediately any changes in its bank details, by means of a document, in paper or electronic format, certified by the bank concerned.<sup>4</sup>

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<sup>3</sup> BIC or SWIFT code for countries with no IBAN code.

**ARTICLE I.8 – MEANS OF COMMUNICATION AND DATA CONTROLLER**

For the purposes of Article II.6, the data controller is the Court of Justice of the European Union.

Any communication relating to the contract or its application shall be made in writing on paper or by electronic means and shall specify the contract number. Ordinary mail shall be deemed to be received by the Court of Justice on the date of its recording by the department responsible, indicated below.

Any electronic communication must be confirmed by a paper version if either of the parties so requests.

Communications are to be sent to the following addresses:

**Contracting authority:**

Court of Justice of the European Union

Library Directorate

TB/01 LB0042

L-2925 Luxembourg

E-mail : Acquisitions.Biblio\_c@curia.europa.eu

**Contractor:**

*[Full name]*

*[Position]*

*[Company name]*

*[Full official address]*

E-mail: *[to be completed]*

**ARTICLE I.9 – APPLICABLE LAW AND SETTLEMENT OF DISPUTES**

**I.9.1** The FWC shall be governed by European Union law, complemented, where necessary, by the substantive law (domestic) of Luxembourg.

**I.9.2** Any dispute between the parties in relation to the interpretation, application or validity of the FWC which cannot be settled amicably shall be brought before the courts of Luxembourg.

In the event of a dispute, each party will bear itself the costs and fees of their legal, technical or other advisers, such outlays being excluded from any reparable damages.

**ARTICLE I.10 – TERMINATION BY EITHER PARTY**

Either party may, unilaterally and without being required to pay compensation, terminate wholly or partially either the FWC or the FWC and Specific Contracts by formally notifying the other party and by giving six months' notice. Should the contracting authority terminate the FWC or Specific

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<sup>4</sup> The financial identification form is available at:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm#en](http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm#en)



Contracts, the contractor shall only be entitled to payment corresponding to the supplies ordered and delivered before the termination date. Article II.13.3 shall apply.

**SIGNATURES**

For the contractor,

For the contracting authority,

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

*[forename/surname/position]*

signature[s]: \_\_\_\_\_

signature[s]:\_\_\_\_\_

Done at [place].....,

Done at Luxembourg, [date] .....

[date] .....

in duplicate in English.

## **II – GENERAL CONDITIONS FOR SUPPLY FRAMEWORK CONTRACTS**

### **ARTICLE II.1 – PERFORMANCE OF THE CONTRACT**

#### **II.1.1 Specific Contracts**

Whenever the contracting authority wishes products to be supplied, it shall send a Specific Contract to the contractor, in duplicate, specifying the terms of supply of the products, such as quantity, designation, quality, price, place of delivery and time allowed for delivery, in accordance with the conditions laid down in the FWC.

Within the period indicated in Article I.5, the contractor shall return one original of the Specific Contract, duly signed and dated, thereby acknowledging receipt of the Specific Contract and acceptance of the terms.

#### **II.1.2 Delivery**

a) Time allowed for delivery

The time allowed for delivery shall be calculated in accordance with Article I.5.2.

b) Date, time and place of delivery

The contracting authority shall be notified in writing of the exact date of delivery within the period indicated in Article I.5.2. All deliveries shall be made at the agreed place of delivery during the hours indicated in Article I.5.2.

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

c) Consignment note (**not applicable**)

Each delivery shall be accompanied by a consignment note in duplicate, duly signed and dated by the contractor or his carrier, giving the Specific Contract number and particulars of the supplies delivered. One copy of the consignment note shall be countersigned by the contracting authority and returned to the contractor or to his carrier.

#### **II.1.3 Receipt of periodicals**

Receipt of a delivery by the Court shall constitute mere acknowledgement of the delivery of periodicals, and not an acknowledgement that they comply with the Specific Contract.

If, for reasons attributable to the contractor, the contracting authority is not able to receive the supplies, the contractor shall be advised according to the provisions laid down in Section 12.1 of the tender Specifications.

#### **II.1.4 Conformity of the supplies delivered with the FWC**

a) The supplies delivered by the contractor to the contracting authority must be in conformity in quantity, quality, price and packaging with the FWC and the Specific Contract concerned.

b) The supplies delivered must:

- i) correspond to the description given in the tender specifications (Annex I) and possess the characteristics of the supplies provided by the contractor to the contracting authority as a sample or model;

- 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 FWC and accepted by the contractor;
- iii) be fit for the purposes for which supplies of the same type are normally used;
- iv) 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.1.5 Consequences of lack of conformity**

- a) The contractor shall be liable to the contracting authority for any lack of conformity which exists at the time the supplies are verified.
- b) In the event of lack of conformity, without prejudice to Article II.11 on liquidated damages applicable to the total price of the supplies concerned, the contracting authority shall be entitled:
  - i) either to have the supplies brought into conformity, free of charge, by repair or replacement;
  - ii) obtain an appropriate reduction in the price of the subscription concerned or reimbursement of the value of the defective copy.
- c) Any repair or replacement must take place within a reasonable time and must not cause any significant inconvenience to the contracting authority, taking account of the nature of the supplies and their intended use.
- d) The term 'free of charge' in paragraph b) refers to the costs of bringing the supplies into conformity, particularly the costs of postage, labour and materials.

### **II.1.6 Assembly (not applicable)**

If required by the tender specifications (Annex I), the contractor shall assemble the supplies delivered within a period of one month unless otherwise specified in the special conditions.

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 if installation forms part of the FWC and the supplies were installed by the contractor or under his responsibility. This shall apply equally if the product was to be installed by the contracting authority and was incorrectly installed owing to a shortcoming in the installation instructions.

### **II.1.7 Services associated with the supplies**

If required by the tender specifications (Annex I), services associated with the supplies shall be provided accordingly.

### **II.1.8 General provisions concerning supplies**

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 contracting authority and address for delivery;
- ii) name of contractor;
- iii) description of contents;
- iv) date of delivery;
- v) number and date of the Specific Contract;
- vi) the code number of the Court of Justice assigned to the article.

### **II.1.9 General provisions on performance of the FWC**

- a) The contractor shall perform the FWC to the highest professional standard.
- b) The contractor shall be solely responsible for taking the necessary steps to obtain any permit or licence required for performance of the FWC under the laws and regulations in force at the place where the Specific Contracts are to be executed.
- c) Any reference made to the contractor's personnel in the contract shall relate exclusively to individuals involved in the performance of the FWC.
- d) The contractor must ensure that any personnel performing the FWC possess the professional qualifications and experience required for execution of the Specific Contracts 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 execute 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 a member 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 FWC, the contractor shall replace him/her without delay. The contracting authority shall have the right to make a reasoned request for the replacement of such personnel. The replacement personnel must have the necessary qualifications and be capable of performing the FWC under the same contractual conditions. The contractor shall be responsible for any delay in the execution of the Specific Contracts resulting from the replacement of personnel.
  - h) Should the execution of the FWC be directly or indirectly hampered, either partially or totally, by any unforeseen event, action or omission, the contractor shall immediately and at 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 FWC. 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 FWC, the contracting authority may - without prejudice to its right to terminate the FWC - 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.11.
- j) The contractor, and, where appropriate, its subcontractors will comply with the obligations applicable in the fields of environmental, social and labour law established by European Union law, national legislation, collective agreements or international conventions applicable in the field of social and labour law listed in Annex X to Directive 2014/24/EU.

### **II.1.10 Minimum requirements relating to the performance of the FWC**

‘The contractor must satisfy the minimum requirements laid down in the tender specifications. That includes compliance with the obligations applicable in the fields of environmental, social and labour law established by European Union law, national legislation, collective agreements or provision of international law in the fields of environmental social and labour law listed in Annex X to Directive 2014/24/EU<sup>5</sup>.’

## **ARTICLE II.2 – MEANS OF COMMUNICATION**

**II.2.1** Any communication relating to the FWC or to its performance shall be made in writing and shall bear the FWC 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.8. 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.8.

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

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<sup>5</sup> OJ L 94 of 28.3.2014, p. 65.

consequence of performance of the FWC, 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 FWC, 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 relevant Specific 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 Union 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 FWC. In the event of any action brought by a third party against the contracting authority in connection with the performance of the FWC, 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 FWC, if required by the relevant applicable legislation. It shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the contracting authority should it so request.

#### **ARTICLE II.4 - CONFLICT OF INTEREST**

- II.4.1** The contractor shall take all the necessary measures to prevent any situation of conflict of interest. Such situation arises where the impartial and objective performance of the FWC 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 FWC 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 FWC.
- 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 FWC 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 FWC 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 FWC or Specific Contract without prior written agreement of the contracting authority;
- b) ensure the protection of such confidential information and documents with the same level of protection it uses to protect its own confidential information, but in no case any less than reasonable care;
- c) not disclose directly or indirectly confidential information and documents to third parties without prior written agreement of the contracting authority.

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

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

**II.5.3** The contractor shall obtain from any natural person with the power to represent it or take decisions on its behalf, as well as from third parties involved in the performance of the FWC or Specific Contract an undertaking that they will comply with the confidentiality obligation set out in Article II.5.1.1.

## **ARTICLE II.6 – PROCESSING OF PERSONAL DATA**

**II.6.1.** Personal data must be processed in accordance with the requirements of Regulation (EC) No 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. That data shall be processed by the data controller exclusively for the purposes of the performance, management and follow-up of the framework contract without prejudice to any transfer of that data to the bodies responsible for a monitoring or inspection task in accordance with 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 FWC 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 to its personnel access to the data to the extent strictly necessary for the performance, management and monitoring of the FWC.
- II.6.6** The contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:
- (a) prevent any unauthorised person from gaining access to computer systems processing personal data, and especially:
    - (i) unauthorised reading, copying, alteration or removal of storage media;
    - (ii) unauthorised data input, as well as any unauthorised disclosure, alteration or erasure of stored personal data;
    - (iii) unauthorised use of data-processing systems by means of data transmission facilities;
  - (b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
  - (c) record which personal data have been communicated, when and to whom;
  - (d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the contracting authority;
  - (e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
  - (f) design its organisational structure in such a way that it meets data protection requirements.

## **ARTICLE II.7 – SUBCONTRACTING**

- II.7.1** The contractor shall not subcontract without prior written authorisation from the contracting authority nor cause the FWC to be de facto performed by third parties.
- II.7.2** Even where the contracting authority authorises the contractor to subcontract to third parties, the contractor shall nevertheless remain bound by its contractual obligations and shall be solely responsible for the proper performance of this FWC.
- 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 FWC, notably by Article II.16.
- II.7.4** The contractor shall replace a subcontractor that is in an exclusion situation, that does not satisfy a specific selection criterion or does not comply with the applicable obligations in the fields of social, environmental and labour law established by European Union law, national law, collective agreements or by international conventions applicable in the fields of social and labour law listed in Annex X to Directive 2014/24/EU.



## **ARTICLE II.8 – AMENDMENTS**

- II.8.1** Any amendment to the FWC or Specific Contract shall be made in writing before the performance of any contractual obligations. A Specific Contract may not be deemed to constitute an amendment to the FWC.
- II.8.2** The amendment may not have the purpose or the effect of making changes to the FWC or to Specific Contracts which might call into question the decision awarding the FWC or Specific Contract or result in unequal treatment of tenderers or contractors.

## **ARTICLE II.9 – ASSIGNMENT**

- II.9.1** The contractor shall not assign the rights, including claims for payments, and obligations arising from the FWC, 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 – FORCE MAJEURE**

- II.10.1** ‘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 FWC, 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.10.2** A party faced with force majeure shall formally notify the other party without delay, stating the nature, likely duration and foreseeable effects.
- II.10.3** 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.10.4** The parties shall take all the necessary measures to limit any damage due to force majeure.

## **ARTICLE II.11 – LIQUIDATED DAMAGES**

The contracting authority may impose liquidated damages should the contractor fail to complete its contractual obligations, also with regard to the required quality level, according to the tender specifications.

Should the contractor fail to perform its contractual obligations within the time limits set by the FWC or the relevant Specific Contract, then, without prejudice to the contractor’s actual or potential liability or to the contracting authority’s right to terminate the FWC or the relevant Specific Contract, the contracting authority may impose liquidated damages for each and every calendar day of delay according to the following formula:

$$D = V \times d \times 0.01$$

Where

*D* is the amount of liquidated damages;

*V* is the price of the purchase concerned ;

*d* is the number of calendar days of delay.

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.12 – SUSPENSION OF THE PERFORMANCE OF THE FWC**

### **II.12.1 Suspension by the contractor**

The contractor may suspend the performance of the FWC or Specific 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 FWC or Specific Contract.

Once circumstances allow performance to be resumed, the contractor shall inform the contracting authority immediately, unless the contracting authority has already terminated the FWC or Specific Contract.

### **II.12.2 Suspension by the contracting authority**

The contracting authority may suspend the performance of the FWC or Specific Contract or any part thereof):

- a) if the FWC or Specific Contract award procedure or the performance of the FWC 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 where the notification so provides. The contracting authority shall as soon as possible give notice to the contractor to resume the service suspended or inform the contractor that it is proceeding with termination of the FWC or Specific Contract. The contractor shall not be entitled to claim compensation on account of suspension of the FWC or Specific Contract or of part thereof.

## **ARTICLE II.13 – TERMINATION OF THE FWC**

### **II.13.1 Grounds for termination**

The contracting authority may terminate the FWC or a Specific Contract respectively 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 FWC or Specific Contract substantially or call into question the decision to award the FWC;
- b) if execution of the tasks under a pending Specific Contract has not actually commenced within 15 days of the date provided, 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 FWC or a Specific Contract as established in the tender specifications or fails to fulfil another substantial contractual obligation; termination of three or more Specific Contracts on this ground shall constitute ground for termination of the FWC;
- d) in the event of force majeure notified in accordance with Article II.10 or if the performance of the FWC or Specific Contract has been suspended by the contractor as a result of force majeure, notified in accordance with Article II.12, where either resuming performance is impossible or the modifications to the FWC or Specific Contract might call into question the decision awarding the FWC or Specific Contract, or result in unequal treatment of tenderers or contractors;
- e) if the contractor is declared bankrupt, is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- f) if the contractor or any natural person with the power to represent it or take decisions on its behalf has been found guilty of professional misconduct proven by any means;
- g) if the contractor is not in compliance with its obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or with those of the country of the applicable law of this FWC or those of the country where the FWC is to be performed;
- h) if the contracting authority has evidence that the contractor or any natural persons with the power to represent it or take decisions on its behalf have committed fraud, corruption, or are involved in a criminal organisation, money laundering or any other illegal activity detrimental to the Union's financial interests;
- i) if the contracting authority has evidence that the contractor or any 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 FWC, 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 FWC or Specific Contract;
- k) if the needs of the contracting authority change and it no longer requires new supplies under the FWC.
- l) if the contractor or, as the case may be, its subcontractors, does not comply with the applicable obligations in the fields of social, environmental and labour law established by European Union law, national law, collective agreements or by international conventions applicable in the fields of social and labour law listed in Annex X to Directive 2014/24/EU.

### **II.13.2 Procedure for termination**

When the contracting authority intends to terminate the FWC or Specific 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.13.1, to inform the contracting authority about the measures taken to continue the fulfilment of its contractual obligations, within 30 days from receipt of the notification.

If the contracting authority does not confirm acceptance of these observations by giving written approval within 30 days of receipt, the termination procedure shall proceed. In any case of termination the contracting authority shall formally notify the contractor of its decision to terminate the FWC or Specific Contract. In the cases referred to in points (a), (b), (c), (e), (g), (j), (k) and (l) of Article II.13.1 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.13.1 the termination shall take effect on the day following the date on which notification of termination is received by the contractor.

### **II.13.3 Effects of termination**

In the event of termination, the contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the notification of termination, the contractor shall take all the appropriate measures to minimise costs, prevent damages, and cancel or reduce its commitments. The contractor shall have 60 days from the date of termination to draw up the documents required by the special conditions or Specific Contracts 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 FWC.

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 deliver the supplies or provide or complete the associated 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 FWC.

## **ARTICLE II.14 – REPORTING AND PAYMENTS**

### **II.14.1 Date of payment**

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

### **II.14.2 Currency**

The FWC shall be in euros.

Payments shall be executed in euros or in the local currency as provided for in Article I.3.2.

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.14.3 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) costs 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.14.4 Invoices and Value Added Tax**

Invoices shall contain the contractor's identification, the amount, the currency and the date, as well as the FWC reference and the Specific 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 FWC are exempt from taxes and duties, including VAT exemption.

### **II.14.5 Suspension of period for payment**

The contracting authority may suspend the payment periods specified in Article I.5 at any time by notifying the contractor that its invoice cannot be processed, either because it does not comply with the provisions of the FWC, 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 Specific Contract in accordance with Article II.13.1(c).

#### **II.14.6 Interest on late payment**

On expiry of the payment periods specified in Article I.5, and without prejudice to Article II.14.5, 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 period in accordance with Article II.14.5 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.14.1.

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

### **ARTICLE II.15 – RECOVERY**

**II.15.1** If an amount is to be recovered under the terms of the FWC, 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.15.2** 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.14.6. 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 amount owed.

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

**II.15.3** If payment has not been made by the due date, the contracting authority may, after informing the contractor in writing, recover the amounts due by offsetting them against any amounts owed to the contractor by the Union or by the European Atomic Energy Community or by calling in the financial guarantee, where provided for in Article I.5 or in the Specific Contract.

**ARTICLE II.16 – CHECKS AND AUDITS**

**II.16.1** The contracting authority and the European Anti-Fraud Office may check or have an audit on the performance of the FWC. It may be carried out either directly by its own staff or by any other outside body authorised to do so on its behalf.

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

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

**II.16.3** 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 FWC 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.16.4** On the basis of the findings made during the audit, a provisional report shall be drawn up. It shall be sent to the contractor, which shall have 30 days following the date of receipt to submit observations. The final report shall be sent to the contractor within 60 days following the expiry of that deadline.

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

**II.16.5** By virtue of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, 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 Union against fraud and other irregularities. Where appropriate, the findings may lead to recovery by the contracting authority.

**II.16.6** The European 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**

### **SPECIFIC CONTRACT**

No [complete]  
implementing framework contract No [complete]

1. The European Union ('the Union'), represented by the Court of Justice of the European Union ('the contracting authority'), represented for the purposes of signing this specific contract by [forename, surname, function, department of authorising officer],

and

2. [Full official name]

[Official legal form]

[Statutory registration number or ID or passport number]

[Full official address]

[VAT registration number]

("the contractor"), represented for the purposes of signing this specific contract by [forename, surname and function of legal representative,]

HAVE AGREED

#### **ARTICLE 1. SUBJECT MATTER**

- 1.1 This specific contract implements framework contract (FWC) No [complete], [lot [complete] signed by the parties on [complete date].
- 1.2 In accordance with the provisions set out in the FWC and in this specific contract and its annex[es], which form an integral part of it, the contractor must provide the supplies specified in Annex I.

#### **ARTICLE 2. ENTRY INTO FORCE AND DURATION**

- 2.1 This specific contract enters into force on the date on which the last party signs it.
- 2.2 The performance of the contract starts from the date of entry into force of this specific contract.



**2.3** The performance of the contract must not exceed [complete] [days] [months]. The parties may extend the duration by written agreement before it elapses and before expiry of the FWC.

**ARTICLE 3. PRICE**

**3.1** The price payable under this specific contract is EUR [amount in figures and in words].

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

**ARTICLE 4. DELIVERY LOCATION**

The periodicals are to be delivered to the building of the Court of Justice housing its library, in Luxembourg to the following address:

Court of Justice of the European Union  
Library TB01-LB042  
2925 Luxembourg  
Luxembourg

**Annexes**

I. Request for supply

**Signatures**

For the contractor,

For the contracting authority,

[Company name/forename/surname/function]

[forename/surname/function]

signature:

Done at [place], [date]

signature:

Done at [place], [date]

In duplicate in English.