

Specifications attached to the Invitation to Tender
EASA.2009.OP 21
Study on the regulation of ground de-icing and anti-icing
services in the EASA Member States

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Introduction to EASA

The European Aviation Safety Agency, (hereinafter “EASA” or “the Agency”), is an agency of the European Union, which has been given specific regulatory and executive tasks in the field of aviation safety. The Agency’s mission is to promote and maintain the highest common standards of safety and environmental protection in civil aviation in Europe and worldwide.

The main tasks of the Agency currently include:

- Rulemaking: drafting aviation safety legislation and providing technical advice to the European Commission and to the Member States;
- Inspections, training and standardisation programmes to ensure uniform implementation of European aviation safety legislation in all Member States;
- Safety and environmental type-certification of aircraft, engines and parts;
- Approval of aircraft design organisations world-wide and of production and maintenance organisations outside the EU;
- Authorisation of third-country (non EU) operators;
- Coordination of the European Community programme SAFA (Safety Assessment of Foreign Aircraft) regarding the safety of foreign aircraft using Community airports;
- Data collection, analysis and research to improve aviation safety.

In a few years, the Agency will also be responsible for safety regulations regarding airports and air traffic management systems.

Based in Cologne, the agency already employs around 400 professionals from across Europe. It will continue to recruit highly qualified specialists and administrators in the coming years as it consolidates its position as Europe’s centre of excellence in aviation safety.

Further information can be found on the Agency’s web site at <http://www.easa.europa.eu>

Overview of this tender

1.1 Description of the contract

The services required by EASA are described in the terms of reference in part 1.13 of the present tender specifications.

1.2 Timetable

Summary timetable	Date	Comments
Launch date	13 October 2009	
Deadline for request of clarifications from EASA	13 November 2009	
Last date on which clarifications are issued by EASA	18 November 2009	
Deadline for submission of tenders	25 November 2009	Tenders delivered by hand shall be submitted not later than 17:00h Local Time
Opening session	02 December 2009	10:00h Local Time
Completion date for evaluation of tenders	December 2009	Estimate
Signature of contracts	December 2009	Estimate

1.3 Participation in the tender procedure

This procurement procedure is open to any natural or legal person wishing to bid for the assignment and established in the EU, the EEA, an EASA partner country or any other country covered by the WTO Government Procurement Agreement.

In addition, tenderers must not be in any of the exclusion criteria indicated in section 3.1 of these tender specifications and must have the legal capacity to allow them to participate in this tender procedure (see section 3).

Please note that any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or EASA during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of his tender and may result in administrative penalties.

1.4 Participation of consortia

Consortia, may submit a tender on condition that they comply with the rules of competition.

A consortium may be a permanent, legally-established grouping or a grouping which has been constituted informally for this specific tender procedure.

Such grouping (or consortium) must specify the company or person heading the project (the leader) and must also submit a copy of the document authorising this company or person to submit a tender on behalf of all members of the consortium. All members of a consortium (i.e. the leader and all other members) are jointly and severally liable to the Contracting Authority.

In addition, each member of the consortium must provide the required evidence for the exclusion and selection criteria (see Section 3 of these tender specifications). Concerning the selection criteria “technical and professional capacity”, the evidence provided by each member of the consortium will be checked to ensure that the consortium **as a whole** fulfils the criteria.

The participation of an ineligible person will result in the automatic exclusion of that person. In particular, if that ineligible person belongs to a consortium, the whole consortium will be excluded.

1.5 Subcontracting

The tenderer must indicate clearly, which parts of the work will be sub-contracted.

Sub-contractors must satisfy the eligibility criteria applicable to the award of the contract. If the identity of the intended sub-contractor(s) is already known at the time of submitting the tender, all sub-contractors must provide the required evidence for the exclusion criteria.

If the identity of the sub-contractor is not known at the time of submitting the tender, the tenderer who is awarded the contract will have to seek EASA’s prior written authorisation before entering into a sub-contract.

Where no sub-contractor is given, the work will be assumed to be carried out directly by the bidder.

1.6 Presentation of the tenders

The tenders must comply with the following conditions:

1.6.1 Tenders must be submitted in accordance with the double envelope system:

The **outer envelope** or parcel should be sealed with adhesive tape and signed across the seal and carry the following information:

- the reference number of the invitation to tender **No. EASA.2009.OP 21**
- the project title **“Study on the regulation of ground de-icing and anti-icing services in the EASA Member States”**
- the name of the Tenderer
- the indication **“Tender - Not to be opened by the internal mail service”**
- the address for submission of tenders *(as indicated in the letter of invitation to tender)*
- the date of posting *(if applicable)* should be legible on the outer envelope.

The outer envelope must contain **three inner envelopes**, namely, **Envelope A, B and C**.

The content of each of these three envelopes must be as follows:

Envelope A - Administrative documents

- the tender submission form using the template in **Annex VII**
- the duly filled in, signed and dated **Exclusion Criteria Declaration(s)** as requested in Section 3.1 and using the standard template in **Annex IV**

- the duly filled in, signed and dated **Legal Entity Form(s)** as requested in Section 3.2.1 and using the standard template in **Annex V**
- the duly filled in, signed and dated **Financial Identification Form**¹ using the template in **Annex VI**
- the selection criteria documents as requested in **Section 3.2**
- a statement containing the name and position of the tenderer's **authorised signatory**
- In case of consortia, a duly signed and dated **consortium statement** by each of the consortium members specifying the company or person heading the project and authorised to submit a tender on behalf of the consortium (please see **Section 1.4** of the Tender Specifications)
- statement of absence of conflicts of interests as found in **Annex VIII**

Envelope B – Technical proposal

One signed original and 3 (three) copies of the technical proposal providing all information requested in point 4.3 including information relevant to subcontracting as requested in point 1.5.

Envelope C – Financial proposal

One signed original and 3 (three) copies of the financial proposal based on the format found in **Annex II**

1.6.2 The original tender must be marked "**ORIGINAL**", and the copies signed in the same way as the original and marked "**COPY**".

1.6.3 Tenders should be drafted in one of the official languages of the European Union, **preferably English**.

It is extremely important that tenders be presented in the correct format and include all documents necessary to enable the evaluation committee to assess them. Failure to respect these requirements will constitute a formal error and may result in the rejection of the tender.

1.7 Period during which the tenders are binding

Period of validity of the tenders, during which tenderers may not modify the terms of their tenders in any respect is 90 days after the deadline for the submission of tenders. In exceptional cases, before the period of validity expires, EASA may ask tenderers to extend the period for a specific number of days, which may not exceed 40.

The selected tenderer must maintain its tender for a further 60 days from the date of notification that his tender has been recommended for the award of the contract. The further period of 60 days is added to the initial period of 90 days irrespective of the date of notification.

1.8 Contacts between EASA and the tenderers

Contacts between EASA and tenderers are prohibited throughout the procedure save in exceptional circumstances and under the following conditions only:

¹ in case of consortia, only **one** Financial Identification Form for the whole consortium shall be submitted, nominating the bank account into which payments are to be made under the contract in the event that the respective tender is successful

A. Before the final date for submission of tenders:

- At the request of the tenderer, EASA may provide additional information solely for the purpose of clarifying the nature of the contract. Any request for additional information must be made in writing at the **Fax no.: +49-221.89.99.09.99** or by **e-mail** at tenders@easa.europa.eu and sarah.poralla@easa.europa.eu and should indicate the reference number and the title of the tender.
- Requests for additional information received after the deadline for request of clarifications from EASA as specified in section 1.2 – Timetable will not be processed.
- EASA may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other clerical error in the text of the call for tender.
- Any additional information including that referred to above will be published on EASA's website. Please ensure that you visit regularly the site for updates.

B. After the opening of tenders:

- If, after the tenders have been opened, some clarification is required in connection with a tender, or if obvious clerical errors in the submitted tender must be corrected, the EASA may contact the tenderer, although such contact may not lead to any alternation of the terms of the submitted tender.

1.9 Visits to EASA premises

No site visits at EASA's premises are deemed necessary for this procedure.

1.10 Division into lots

This tender is not divided into lots. The tenderer must be in a position to be able to provide all the services requested.

1.11 Variants

In the absence of any such indication in the terms of reference, the tender should not deviate from the services requested.

1.12 Scope for additional services

EASA may, at its own discretion, extend the project in duration and/or scope subject to the availability of funding and to satisfactory performance by the Contractor

1.13 Confidentiality & public access to documents

In the general implementation of its activities and for the processing of tendering procedures in particular, EASA observes the following rules:

- Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 and 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, and;
- Council Regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

1.14 Contract provisions

In drawing up your tender, the tenderer should bear in mind the provisions of the draft contract (see **Annex I** to the present tender specifications). In particular, the draft contract indicates the method and the conditions for payments to the contractor.

2 Terms of Reference

The Terms of Reference will become part of the contract that may be awarded as a result of this tender.

2.1 Introduction: background of the invitation to tender

Suggested reading for understanding this tender to be found on EASA website:

1. Advance Notice of Proposed Amendment (A-NPA) 2007-11 of 31 July 2007;
2. Comment Response Document (CRD) to A-NPA of 3 September 2008.

The danger posed by thickener residues from certain types of anti-icing fluids has been known for some time. Incidents in the more recent past have led to a number of safety recommendations made to EASA by several Accident Investigation bodies. Despite not having responsibility for all domains of aviation that were touched upon by the aforementioned safety recommendations, EASA analysed all issues and developed A-NPA 2007-11. After public consultation EASA reviewed the comments and concluded in a CRD document in 2008 that the comments received to A-NPA indicated that most commentators wished that the Agency find ways so that:

- a. An appropriate range and stock of thickened and un-thickened fluids to anti-ice aircraft is maintained and offered at each aerodrome receiving commercial air transport aircraft and;
- b. De-ice/ anti-ice service providers be approved and;
- c. Fluids to de-ice and anti-ice aircraft be certified.

The Agency concurred that these were valid requests. However, EASA stated a number of reasons posing difficulties to achieve these objectives in the short term as these lay outside its remit. Apart from some important immediate actions in the area of aircraft design and the Agency's responsibility over type certificates, the limitations to immediate regulatory actions in other areas were detailed in the CRD. Thus, in accordance with the core feedback from respondents, the Agency stated that it was envisaging a number of medium and long-term actions for which a plan was laid out:

1. Continue to take note of activities and progresses made by the relevant SAE Committee and subgroups on this subject and provide input as necessary (**long-term**).
2. Make proposals to the European Commission for studies to evaluate the feasibility of introducing in CS23 and CS25 a criterion for establishing sensitivity to fluid residues (**long-term**).
3. Investigate and recommend the means by which Aviation Authorities of Member States manage matters with respect to the certification of service providers, availability of fluids at aerodromes, etc (**medium-term**).
4. Make, as far as possible, provisions in the implementing rules on the safety of aerodromes with a view to make the operations of de-ice/ anti-icing service providers safer and ensure the availability of fluids (**medium-term**).
5. Consider input from stakeholders regarding amendments to the operational rules on de-icing/ anti-icing, during the forthcoming NPA consultation process of the implementing rules for air operations to the EAS Basic Regulation (**medium-term**).
6. Plan to introduce into the rulemaking inventory a task to extend the Agency's remit to fluids and materials in addition to parts and appliances. Such a task would be preceded by an A-NPA to explain and consult on the concept (**long-term**).

In the CRD the Agency stated that it believed that the above policy elements, when pursued determinedly, would provide a good basis for improving the situation regarding the problems surrounding the residue formation associated with the use of de-icing/ anti-icing fluids. The Agency has since set about to realise these actions.

2.2 Description of the subject and scope of the contract

The present Terms of Reference refer to action number 3 above:

“3. Investigate and recommend the means by which the Aviation Authorities of Member States manage matters with respect to the certification of service providers, availability of fluids at aerodromes, etc (medium term)”

In order to support the Agency in developing a voluntary harmonised regulatory approach to the service providers and to achieve the availability of fluids at aerodromes, the Agency needs factual inputs and informed advice by a knowledgeable consultant or consortium of consultants. There are three work packages to be undertaken by a prospective consultant:

- **Investigation of the problem area:**

With respect to the regulation of service providers EASA needs a systematic study containing an overview over the regulatory approaches taken by the National Aviation Authorities (NAAs) in the EASA Member States towards de-icing and anti-icing service providers. Regulatory approaches can be expected to differ across Europe from being at one end of the spectrum mostly “hands-off” to being more rigorous at the other end of the spectrum; the approaches may even only touch particular aspects, such as ground handlers’ market access², occupation health & safety, licensing or training and quality assurance. An analysis of these approaches should take into account a variety of relevant factors, which the tenderer should describe in the offer in the methodology section. Furthermore, EASA would like to obtain an overview over the airports/ aerodromes at which air operators with a fleet containing susceptible aircraft are unable to get the appropriate de-icing and anti-icing treatment. It will be important for the tenderer to present an effective and cost-efficient methodology for obtaining this comprehensive overview.

- **Recommendations for regulatory action by Member States and the role of EASA therein:**

Due to not being neither the direct regulator nor rule maker for ground-handlers, EASA would like to obtain from a knowledgeable consultant appropriate recommendations as to the most effective ways in which the NAAs of the EASA Member States could regulate the highly safety relevant de-icing / anti-icing services in a harmonised way, so that the safety of aircraft operations is maximised and a level commercial playing field remains ensured. Recommendations should centre on how the availability of type 1 fluids and the quality of service provision can be improved at the aerodromes of the EASA Member States. Recommendations should be based on an analysis taking into account the most pertinent factors, among which must also be environmental considerations³. Tenderers should show in their offers how they arrive at their recommendations and how these are improving the current situation.

- **Pre-regulatory impact assessment (pre-RIA) on the recommendations:**

In order to assess the impact of the recommendations aside from their contribution to safety, the Agency would like the prospective consultant to undertake a Pre-Regulatory Impact Assessment in which it is necessary to judge also the economic, social, and environmental impacts of the carefully defined recommendations (contrasting them also to other options). The safety dimension must of course be given its due weighing when comparing recommendations and other options. The assessment needs to make realistic assumptions as to the expected effects and the tenderer would be expected to lay out their approach to this exercise in the offer and name the data sources and other resources that would be used. In particular it would be of interest to obtain an quantitative estimation of the average investment expenditure for equipment to provide adequate aircraft ground de-icing / anti-icing operations (at an aerodrome where this was not previously provided) including the corresponding depreciation costs and maintenance costs. Moreover, it would be helpful to know what are the additional costs (investment expenditure / depreciation

² Council Directive 96/67/EC of 15 Oct. 1996, Art. 1 states that aerodromes with fewer than 2 million passengers or 50,000 t of cargo or mail in the months from April to October of the proceeding year do not have to allow 3rd party ground-handling. This provision is likely to cause a step change of the market organisation. EASA is of course interested in both sides of that divide: de-icing / anti-icing services at aerodromes below and above this threshold.

³ Environmental concerns are of particular relevance to the “residue” issue because the possible remedy to the residue is the increased use of Type I fluids, which (a) contain 90% of glycol and (b) are used in very large quantities.

costs, maintenance costs) at very small, small and larger aerodromes to upgrade facilities and equipment to providing fluid type I in addition to type II and IV.

2.2.1 Methodology

- The methodology to be applied in this project is to be elaborated already at the tendering stage, building upon the information provided in these tender specifications. As it can be seen in the award criteria, the proposed methodology is an important element in the evaluation of tenders (**30% weight** in the total technical score). The originality of the methodology and novel thinking concerning the tasks to be achieved by the Agency will be given particular attention.
- The contractor will work with desk top research, industry experts, questionnaires, telephone-interviews and/or other methods that should be described in the offers. The contractor will take due account of the language challenges to be encountered and clarify in the tender how to overcome them.

2.2.2 Data collection

- The contractor shall prepare comprehensive data sheets regarding the status quo (2008) of the regulatory situation regarding de-icing/anti-icing services in each EASA Member State.
- The contractor shall provide a comprehensive list of the entities in the respective States in charge of the regulatory approach to these services; in case such an approach does not yet exist the consultant would have to point out the entities being the ones that need to develop such an approach.
- The contractor shall provide a comprehensive overview over the availability of fluid type 1 treatment at European airports.

2.2.3 Assessment and analysis

- Assessment of the Member States' approach to de-icing/anti-icing service provision needs to be comparable and clearly distinguish between "certification", licensing" and "approving". Concepts must be comparable in scope and regulatory depth.
- Analysis and recommendations need to be well founded, objectively argued while qualitative judgements need to be highlighted and justified.

2.2.4 Pre-Impact Regulatory Impact Assessment (Pre-RIA) on the recommendations

- For the pre-RIA the following dimensions have to be studied: safety, environment, regulatory, economic and social.
- For the Pre-RIA it would be necessary to give estimates for monetary values of the impacts. On where quantification is impossible can the impacts be qualitatively assessed in terms of very positive (++), moderately positive (+), neutral, moderately negative (-), gravely negative (--).
- However, EASA would like to know what are the cost (or cost range) to provide de-icing/anti-icing services (offering type 1 and possibly other de-icing fluids) or to upgrade the fluid and treatment offer (to include also type 1 apart from the anti-icing fluids already offered) at to three different types of aerodromes:
 - Very small (100,000 to 0.5 million passengers p.a.)
 - Small (0.5 to 1 million passenger p.a.)
 - Larger aerodrome (> 1 million passengers p.a.).
- Very important is the analysis and enumeration of the impacted entities and actors in the sector.

2.2.5 Presentation

- The results of the investigation, the analysis, the recommendations and the pre-RIA must be presented comprehensively in an accessible manner so as to allow quick cross referencing and comparison.
- Regulatory legal instruments and regulations need to be listed.

- Differences in languages and legal concepts must be pointed out and in so far as possible equivalent terms should be presented and glossaries be provided.
- Two weeks after the Interim Report is accepted the future consultant is expected to hold a workshop in Cologne during which the results and recommendations would be presented to EASA staff and representatives of all the relevant stakeholders (air operators, service providers, regulators from the NAAs as well as airports). The results of this workshop should be reflected in the final report as appropriate.

2.2.6 Meetings at EASA

Apart from the workshop mentioned in point 2.2.5 above the Contractor is expected to participate to two one-day meetings at the EASA premises: one Kick-off meeting as soon as possible but not later than 10 days after the start of the Contract and one meeting to present the draft final report to EASA staff.

EASA will issue a standard accreditation letter if this is needed for the work of the Contractor. EASA can also furnish the Contractor with initial contact persons inside those NAAs that are organised in the voluntary Group of Aerodrome Safety Regulators (GASR).

2.3 Team of experts

The Contractor shall use a small team of aviation professionals with sufficient experience to execute the tasks. Already at the time of the tender the CVs of the said professionals shall be attached to the proposal.

All team experts will be computer literate, familiar with project management and will have presentation, communication and report preparation skills in English. All experts must be independent and free from conflicts of interest in the responsibilities entrusted to them. Due to the complex nature of the subject matter the tenderers are asked to explain how they will ensure impartiality of the recommendations, in terms of the relevant actors in the problem area (manufacturers, air operators, airports and service providers as well as fluid producers).

2.3.1 Team Leader

The Team Leader will be responsible for the overall planning, management and implementation of the work and for the timeliness and consistency of expected outputs (production and presentation of the reports). S/he shall be the main contact point for EASA, will directly report to the EASA Project Manager and will attend all the meetings foreseen to take place at EASA.

The Team Leader is required to have the following skills, background and professional experience:

- Masters Degree/ equivalent academic level from a recognised university in the field of civil aviation, operational safety, safety regulation, quality, standards, air transport economics (or similar);
- Possess management skills and have assumed important responsibilities within her/his profession with a minimum of 5 years experience in the field of safety regulation, certification and/ or oversight of aerodromes;
- Excellent knowledge of the safety regulatory framework for aerodromes and airlines across Europe;
- Good knowledge of the international and European civil aviation sector;
- Team Leader experience in at least one similar project in terms of scope and complexity;
- Familiarity with EC administrative, contractual and financial procedures would be an advantage;
- Fluency in English and excellent drafting skills in that language.

2.3.2 Team Member/s

The contractor will have to nominate key expert/s so as to form a core team with the Team Leader. Team Member/s is/are required to have the following skills, educational background and professional experience:

- University Degree from a recognised university in the field of civil aviation, operational safety, safety regulation, quality, standards, air transport economics (or similar). If the expert does not have such an education, the contractor can demonstrate an equivalent level of competence via the field experience of the expert;
- At least 5 years professional experience in the field of safety regulation, or certification or operations or oversight or planning of aerodromes;
- Excellent knowledge of the safety regulatory framework for aerodromes and airlines across Europe;
- Good knowledge of the international and European civil aviation sector;
- Fluency in English (spoken, written and superior drafting skills) and in one other language spoken in the EASA Member States.

2.4 Volume of the contract

The maximum budget allocated to this contract is € **170.000,00 (one hundred seventy thousand Euro)**.

2.5 Duration of the contract

The contract will have a total duration of 11 (eleven) months.

2.6 Reporting

The reports are to be submitted to the Project Manager identified in the contract who is responsible for approving them.

The contractor is requested to present:

- the **Kick-off presentation** 10 calendar days after the Kick-off Meeting outlining the complete methodology, details on the data acquisition as well as the analysis and comparison of the results as well as the strategy for the pre-RIA will be outlined;
- the **Interim Report** to be delivered six months before the end of the Contract. It will report on data collection results on the regulatory approaches of the EASA Member States and the preliminary approaches for the recommendations to be developed;
- the **Final report** to be delivered 30 calendar days before the end of the Contract. The data collected will be comprehensively presented; qualitative descriptions and comparisons of the regulatory contexts will be provided. Furthermore, there will be a section outlining the recommendations for an EASA wide regulatory approach to de-icing / anti-icing. Finally,
- the **pre-RIA**.

The study may be published on the Agency's web site.

EASA will have 20 (twenty) days to approve the above-mentioned reports or to make comments and request amendments and the Contractor will have 10 (ten) days to amend them accordingly.

3 Exclusion and selection criteria

3.1 Exclusion criteria

Participation to this tender is only open to tenderers who are not in one of the situations listed below:

- a) bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- c) have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- d) have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- e) have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- f) following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in a serious breach of contract for failure to comply with their contractual obligations.

In addition to the above, contracts may not be awarded to tenderers who, during the procurement procedure:

- are subject to a conflict of interest;
- are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.

Means of proof required

Tenderers shall provide a declaration on their honour (see model in **Annex IV**), duly signed and dated, stating that they are not in one of the situations referred to above.

Nota bene:

The tenderer to whom the contract is to be awarded shall provide, within 15 days following notification of award and preceding the signature of the contract, the following documentary proofs to confirm the declaration referred to above:

- For points a), b) and e) a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied.
- For point d) a recent certificate issued by the competent authority of the State concerned.

Where the document or certificate referred to above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

3.2 Selection criteria

The tenderer must submit evidence of their legal, economic, financial, technical and professional capacity to perform the contract.

3.2.1 Legal capacity

Requirement

Tenderers, **including all consortium members and the proposed sub-contractors**, are asked to prove that they are authorised to perform the contract under the national law as evidenced by inclusion in a trade or professional register, or a sworn declaration or certificate, membership of a specific organisation, express authorisation or entry in the VAT register.

Evidences required

Tenderers, **including all consortium members and the proposed sub-contractors**, shall provide a dully filled in and signed **Legal Entity Form** (see **Annex V**) accompanied by the documents requested therein. (Where a tenderer has already signed another contract with EASA, he may provide instead of the legal entity file and its supporting documents a copy of the legal entity file provided on that occasion, unless a change in his legal status occurred in the meantime).

3.2.2 Economic & Financial capacity

Requirement

The tenderer must be in a stable financial position and have the economic and financial capacity to perform the contract.

Evidences required

Proof of economic and financial capacity may in particular be furnished by one or more of the following documents:

- balance sheets or extracts from balance sheets for at the last two years for which accounts have been closed (where publication of the balance sheet is required under the company law of the country in which the economic operator is established);
- a statement of overall turnover for the last two financial years.

If, for some exceptional reason which EASA considers justified, the tenderer is unable to provide the references requested by the contracting authority, he may prove his economic and financial capacity by any other means which EASA considers appropriate.

3.2.3 Technical and professional capacity

Requirement(s)

The tenderer's technical capacity will be evaluated on the following criteria:

- Expertise in the field of:
 - European and international regulatory framework in Civil Aviation.
 - Technical areas such as rulemaking, safety regulations for aerodromes / airports and approval and standardisation procedures in Europe.
 - Technical expertise in the area(s) of de-/anti-icing.
- The tenderer shall in no way be subject to conflict of interests concerning the implementation of the contract.

Evidences required

The following documents or information must be presented as evidence of compliance with the technical and professional criteria:

- Any evidences demonstrating expertise in the above-mentioned areas;
- Statement on the absence of conflicts of interest (annex VIII)

4 Award of the contract

Only the tenders meeting the requirements of the exclusion and selection criteria will be evaluated in terms of quality and price.

4.1 Technical evaluation

The quality of each technical offer will be evaluated in accordance with the award criteria and the associated weighting as detailed in the evaluation grid below.

No	CRITERIA	Max points	Awarded score
1	RATIONALE (understanding of the Terms of Reference, explanation of the risks & assumptions affecting the execution of the contract and proposed mitigation ways and the approach to the project).	15	
2	METHODOLOGY (description of the proposed methodology, the approach to the assessment/ analysis and recommendation phase as well as the reasoning of the pre-RIA as well as originality and value added) and WORK PLAN (list of activities, their timing, sequence and duration)	30	
3	DELIVERABLES (Presentation of outlines of the deliverables of the study: data, comparisons, recommendations, pre-RIA, work shop set-up)	30	
4	TEAM LEADER AND TEAM MEMBERS (qualifications and skills, general and specific professional experience and languages)	25	
	TOTAL	100	

4.2 Interviews

The Evaluation Committee does not expect to conduct any interviews.

4.3 Technical proposal

The assessment of the technical quality will be based on the ability of the tenderer to meet the purpose of the contract as described in the terms of reference. To this end, the technical proposal shall contain the following information to allow evaluation of their tender according to the technical criteria mentioned above:

- Concise description of the Tenderer's comprehension of the purpose of the project (objectives, expected results, risks);
- Explanation of the risks and assumptions affecting the execution of the contract and the proposed mitigation methods;
- An outline of the approach proposed for the contract implementation, list of proposed activities, timing, sequence and duration of the proposed activities;

- Presentation of the various methodologies for the different phases of the work (structuring, data collection, assessment, analysis, pre-RIA). Originality and value-added thought will be appreciated.
- Presentation of outlines of the deliverables of the study (data, comparisons, recommendations, pre-RIA)
- Project Team Composition and CVs (in the format found in Annex III) of Team Leader and Team Members and their role in the contract execution.

4.4 Technical quality threshold

Only tenders scoring **75 points** or more (of a maximum of 100) points against the technical award criteria will have their financial proposal evaluated.

4.5 Financial proposal

- The financial proposal should be presented in the format found in **Annex II**.
- Prices must be quoted in **EURO** and include all expenses necessary to perform the contract.
- The price quoted is fixed and is subject to **NO revision**.
- Prices must be quoted free of all duties, taxes and other charges (including VAT) as EASA is exempt from such charges under Articles 3 and 4 of the Protocol on the privileges and immunities of the European Communities.
- Costs incurred in preparing and submitting tenders are borne by the tenderer and shall not be reimbursed

4.6 Choice of the selected tender

The most economically advantageous tender is established by weighing technical quality against price on a **70/30 basis**.

ANNEX I - DRAFT CONTRACT

Studies on the regulation of ground de-icing and anti-icing services in the EASA Member States

CONTRACT NUMBER – [complete]

The European Aviation Safety Agency (hereinafter referred to as "the Agency"), which is represented for the purposes of the signature of this contract by Mr. Patrick Goudou, Executive Director,

of the one part,

and

[official name in full]
[official legal form]
[statutory registration number]
[official address in full]
[VAT registration number]

hereinafter referred to as "the Contractor", represented for the purposes of the signature of this contract by [*name in full and function,*]

of the other part,

HAVE AGREED

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

Annex I – Tender Specifications **EASA.2009.OP 21**

Annex II – Contractor's Tender No [complete] of [complete]

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

The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract. The terms set out in the General Conditions shall take precedence over those in the Annexes. The terms set out in the Tender Specifications (Annex I) shall take precedence over those in the Tender (Annex II).

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 the rights of the Contractor under Article I.7 should he dispute any such instruction.

I – SPECIAL CONDITIONS

ARTICLE I.1 - SUBJECT

- I.1.1.** The subject of the Contract is the elaboration by the Contractor of a study on the way how providers of de-icing and anti-icing services are currently regulated in the EASA Member States and how National Aviation Authorities could regulate these in a harmonised manner in the future voluntarily.
- I.1.2.** The Contractor shall execute the tasks assigned to him in accordance with the Tender Specifications annexed to the Contract (Annex I).

ARTICLE I.2 - DURATION

- I.2.1.** The Contract shall enter into force on the date on which it is signed by the last contracting party.
- I.2.2.** Execution of the tasks may under no circumstances begin before the date on which the Contract enters into force.
- I.2.3.** The contract is concluded for 11 (eleven) months. This period and all other periods specified in the Contract are calculated in calendar days. Execution of the tasks shall start from the date of entry into force of the Contract.

ARTICLE I.3 – CONTRACT PRICE

- I.3.1** The total amount to be paid by the Agency under the Contract shall be EUR [complete] covering total execution of the tasks, in conformity with Annex I.
- I.3.2** The total amount referred to in the above paragraph shall be fixed and not subject to revision.

ARTICLE I.4 – PAYMENT PERIODS AND FORMALITIES

Payments under the Contract shall be made in accordance with Article II.4. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted. Payment requests may not be made if payments for previous periods have not been executed as a result of default or negligence on the part of the Contractor.

I.4.1. Pre-financing:

Following signature of the Contract by the last contracting party, within 30 (thirty) days of the receipt by EASA of a request for pre-financing with a relevant invoice a pre-financing payment of EUR [*complete amount in figures and in words*] equal to **30%** of the total amount referred to in Article I.3 shall be made.

I.4.2. Interim payment:

A request for interim payment by the Contractor shall be admissible if accompanied by the Interim Report in accordance with the instructions laid down in Annex I, provided the report has been approved by EASA.

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

Within 30 (thirty) days of the date on which the Interim Report is approved by EASA an interim payment of EUR [complete amount in figures and in words] corresponding to **30%** of the total amount referred to in Article I.3 shall be made.

I.4.3. Payment of the balance:

The request for payment of the balance shall be addressed to the Agency within eight calendar days of the completion of the tasks.

It shall be admissible if accompanied by the final report in accordance with the instructions laid down in Annex I, provided the report has been approved by EASA.

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

Payment of the balance shall be made within 30 (thirty) days of the date on which the report is approved by EASA.

The final invoice shall be paid after deduction of the pre-financing.

ARTICLE I.5 – BANK ACCOUNT

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

Name of bank: [complete]
Address of branch in full: [complete]
Exact designation of account holder: [complete]
Full account number including codes: [complete]
IBAN code: [complete]

ARTICLE I.6 – GENERAL ADMINISTRATIVE PROVISIONS

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

Agency:

Mr/Mrs/Ms [complete]
[Function]
[Company name]
[Official address in full]

Contractor:

Mr/Mrs/Ms [complete]
[Function]
[Company name]
[Official address in full]

ARTICLE I.7– APPLICABLE LAW AND SETTLEMENT OF DISPUTES

I.7.1. The Contract shall be governed by the national substantive law of Germany.

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

ARTICLE I.8 – DATA PROTECTION

Any personal data included in the Contract shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. It shall be processed solely for the purposes of the performance, management and follow-up of the Contract by the Agency, without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in conformity with Community law. The Contractor shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the Contractor have any queries concerning the processing of his personal data, he shall address them to the Agency. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

II – GENERAL CONDITIONS

ARTICLE II.1 – PERFORMANCE OF THE CONTRACT

- II.1.1.** The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.
- II.1.2.** The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.
- II.1.3.** Without prejudice to Article II.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.
- II.1.4.** The Contractor must ensure that any staff performing the Contract have the professional qualifications and experience required for the execution of the tasks assigned to him.
- II.1.5.** The Contractor shall neither represent the Agency nor behave in any way that would give such an impression. The Contractor shall inform third parties that he does not belong to the European public service.
- II.1.6.** The Contractor shall have sole responsibility for the staff who execute the tasks assigned to him.

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

- staff executing the tasks assigned to the Contractor may not be given orders direct by the Agency;
 - the Agency may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Agency any right arising from the contractual relationship between the Agency and the Contractor.
- II.1.7.** In the event of disruption resulting from the action of a member of the Contractor's staff working on Agency premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. The Agency shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.
- II.1.8.** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the Agency. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.

- II.1.9.** Should the Contractor fail to perform his obligations under the Contract in accordance with the provisions laid down therein, the Agency may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, the Agency may impose penalties or liquidated damages provided for in Article II.16.

ARTICLE II.2 – LIABILITY

- II.2.1.** The Agency shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of the Agency.
- II.2.2.** The Contractor shall be liable for any loss or damage caused by himself in performance of the Contract, including in the event of subcontracting under Article II.13. The Agency shall not be liable for any act or default on the part of the Contractor in performance of the Contract.
- II.2.3.** The Contractor shall provide compensation in the event of any action, claim or proceeding brought against the Agency by a third party as a result of damage caused by the Contractor in performance of the Contract.
- II.2.4.** In the event of any action brought by a third party against the Agency in connection with performance of the Contract, the Contractor shall assist the Agency. Expenditure incurred by the Contractor to this end may be borne by the Agency.
- II.2.5.** The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the Agency should it so request.

ARTICLE II.3 - CONFLICT OF INTERESTS

- II.3.1.** The Contractor shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified to the Agency in writing without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

The Agency reserves the right to verify that such measures are adequate and may require additional measures to be taken, if necessary, within a time limit which it shall set. The Contractor shall ensure that his staff, board and directors are not placed in a situation which could give rise to conflict of interests. Without prejudice to Article II.1 the Contractor shall replace, immediately and without compensation from the Agency, any member of his staff exposed to such a situation.

- II.3.2.** The Contractor shall abstain from any contact likely to compromise his independence.
- II.3.3.** The Contractor declares:
- that he has not made and will not make any offer of any type whatsoever from which an advantage can be derived under the Contract,
 - that he has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Contract.

II.3.4. The Contractor shall pass on all the relevant obligations in writing to his staff, board, and directors as well as to third parties involved in performance of the Contract. A copy of the instructions given and the undertakings made in this respect shall be sent to the Agency should it so request.

ARTICLE II.4 – PAYMENTS

II.4.1. Pre-financing:

Where required by Article I.4.1, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) equal to the amount indicated in the same Article to cover pre-financing under the Contract. Such guarantee may be replaced by a joint and several guarantee by a third party.

The guarantor shall pay to the Agency at its request an amount corresponding to payments made by it to the Contractor which have not yet been covered by equivalent work on his part.

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

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

II.4.2. Interim payment:

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

- an interim technical report in accordance with the instructions laid down in Annex I;
- the relevant invoices indicating the reference number of the Contract to which they refer;
- statements of reimbursable expenses in accordance with Article II.7.

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

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

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

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

II.4.3. Payment of the balance:

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

- a final technical report in accordance with the instructions laid down in Annex I;

- the relevant invoices indicating the reference number of the Contract to which they refer;
- statements of reimbursable expenses in accordance with Article II.7.

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

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

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

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

ARTICLE II.5 – GENERAL PROVISIONS CONCERNING PAYMENTS

II.5.1. Payments shall be deemed to have been made on the date on which the Agency's account is debited.

II.5.2. The payment periods referred to in Article I.4 may be suspended by the Agency at any time if it informs the Contractor that his payment request is not admissible, either because the amount is not due or because the necessary supporting documents have not been properly produced. In case of doubt on the eligibility of the expenditure indicated in the payment request, the Agency may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

The Agency shall notify the Contractor accordingly by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in Article I.4 shall begin to run again once the suspension has been lifted.

II.5.3. In the event of late payment the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations (*"the reference rate"*) plus seven percentage points (*"the margin"*). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment. Suspension of payment by the Agency may not be deemed to constitute late payment.

ARTICLE II.6 – RECOVERY

II.6.1. If total payments made exceed the amount actually due under the Contract or if recovery is justified in accordance with the terms of the Contract, the Contractor shall reimburse the appropriate amount in euro on receipt of the debit note, in the manner and within the time limits set by the Agency.

II.6.2. In the event of failure to pay by the deadline specified in the request for reimbursement, the sum due shall bear interest at the rate indicated in Article II.5.3. Interest shall be payable from the calendar day following the due date up to the calendar day on which the debt is repaid in full.

II.6.3. The Agency may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on the Communities that is certain, of a fixed amount and due. The Agency may also claim against the guarantee, where provided for.

ARTICLE II.7 – REIMBURSEMENTS

II.7.1. Where provided by the Special Conditions or by Annex I, the Agency shall reimburse the expenses which are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets.

II.7.2. Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.

II.7.3. Travel expenses shall be reimbursed as follows:

- a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
- b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
- c) travel by car shall be reimbursed at the rate of € 0, 22 (twenty two cents) per kilometre, based on the shortest route between points of origin and destination ;
- d) travel outside Community territory shall be reimbursed under the general conditions stated above provided the Agency has given its prior written agreement.

II.7.4. Subsistence expenses shall be reimbursed on the basis of a daily allowance as follows:

- a) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;
- b) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;
- c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including accommodation, meals, local transport, insurance and sundries;
- d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article I.3.3.

ARTICLE II.8 – OWNERSHIP OF THE RESULTS - INTELLECTUAL AND INDUSTRIAL PROPERTY

Any results or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the Contract, shall be owned solely by the Community, which may use, publish, assign or transfer them as it sees fit, without geographical or other limitation, except where industrial or intellectual property rights exist prior to the Contract being entered into.

ARTICLE II.9 – CONFIDENTIALITY

II.9.1. The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.

- II.9.2.** The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

ARTICLE II.10 - USE, DISTRIBUTION AND PUBLICATION OF INFORMATION

- II.10.1.** The Contractor shall authorise the Agency to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article I.8 shall apply.
- II.10.2.** Unless otherwise provided by the Special Conditions, the Agency shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the Agency.
- II.10.3.** Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from the Agency and shall mention the amount paid by the Community. It shall state that the opinions expressed are those of the Contractor only and do not represent the Agency's official position.
- II.10.4.** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the Agency has specifically given prior written authorisation to the contrary.

ARTICLE II. 11 – TAXATION

- II.11.1.** The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.
- II.11.2.** The Contractor recognises that the Agency is, as a rule, exempt from all taxes and duties, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities.
- II.11.3.** The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.
- II.11.4.** Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

ARTICLE II.12 – FORCE MAJEURE

- II.12.1.** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.

- II.12.2.** Without prejudice to the provisions of Article II.1.8, if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.12.3.** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.12.4.** The contracting parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II.13 – SUBCONTRACTING

- II.13.1.** The Contractor shall not subcontract without prior written authorisation from the Agency nor cause the Contract to be performed in fact by third parties.
- II.13.2.** Even where the Agency authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Agency under the Contract and shall bear exclusive liability for proper performance of the Contract.
- II.13.3.** The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the Agency is entitled by virtue of the Contract, notably Article II.17.

ARTICLE II.14 – ASSIGNMENT

- II.14.1.** The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Agency.
- II.14.2.** In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the Agency.

ARTICLE II.15 – TERMINATION BY THE AGENCY

- II.15.1.** The Agency may terminate the Contract in the following circumstances:
- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - (b) where the Contractor has been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;
 - (c) where the Contractor has been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
 - (d) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;

- (e) where the Agency seriously suspects the Contractor of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) where the Contractor is in breach of his obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by the Agency as a condition of participation in the Contract procedure or failed to supply this information;
- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Agency's opinion, have a significant effect on the performance of the Contract;
- (i) where execution of the tasks has not actually commenced within one month of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Agency;
- (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- (k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

II.15.2. In case of force majeure, notified in accordance with Article II.12, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period laid down in Article I.2.3.

II.15.3. Prior to termination under point e), h) or k), the Contractor shall be given the opportunity to submit his observations.

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

II.15.4. Consequences of termination:

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

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

On termination the Agency may engage any other contractor to complete the services. The Agency shall be entitled to claim from the Contractor all extra costs incurred in making good and completing the services, without prejudice to any other rights or guarantees it has under the Contract.

ARTICLE II.16 – LIQUIDATED DAMAGES

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the Agency's right to terminate the Contract, the Agency may decide to impose liquidated damages of 1% of the amount specified in Article I.3.1 per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the Agency within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion. The Agency and the Contractor expressly acknowledge and agree that any sums payable under this Article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

ARTICLE II.17 – CHECKS AND AUDITS

- II.17.1. Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the European Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the European Communities from signature of the Contract up to five years after payment of the balance.
- II.17.2. The Agency or an outside body of its choice shall have the same rights as the European Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to five years after payment of the balance.
- II.17.3. In addition, the European Anti Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance.

ARTICLE II.18 – AMENDMENTS

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

ARTICLE II.19 – SUSPENSION OF THE CONTRACT

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

SIGNATURES

For the Contractor,
[Company name/forename/surname/function]

For the Agency,
[forename/surname/function]

signature[s]: _____

signature[s]: _____

Done at [city], [date]
In triplicate in English.

Done at Cologne, [date]

ANNEX II - MODEL FINANCIAL OFFER

TENDER PUBLICATION REFERENCE: EASA.2009.OP 21

NAME OF TENDERER: [.....]

Global price: EUR <amount>

Note:

The above amount must not be broken down further

ANNEX III - CURRICULUM VITAE

EUROPEAN CURRICULUM VITAE FORMAT



PERSONAL INFORMATION

Name [SURNAME, other name(s)]
Address [House number, street name, postcode, city, country]
Telephone
Fax
E-mail

Nationality
Date of birth [Day, month, year]

TOTAL YEARS OF [month, year]
EXPERIENCE

WORK EXPERIENCE

- Dates (from – to) [Add separate entries for each relevant post occupied, starting with the most recent.]
- Name and address of employer
- Type of business or sector
- Occupation or position held
- Main activities and responsibilities

EDUCATION AND TRAINING

- Dates (from – to) [Add separate entries for each relevant course you have completed, starting with the most recent.]
- Name and type of organisation providing education and training
- Principal

subjects/occupational skills covered

- Title of qualification awarded
- Level in national classification (if appropriate)

PERSONAL SKILLS AND COMPETENCES

Acquired in the course of life and career but not necessarily covered by formal certificates and diplomas.

MOTHER TONGUE

[Specify mother tongue]

OTHER LANGUAGES

[Specify language]

- Reading skills
- Writing skills
- Verbal skills

[Indicate level: excellent, good, basic.]

[Indicate level: excellent, good, basic.]

[Indicate level: excellent, good, basic.]

SOCIAL SKILLS

[Describe these competences and indicate where they were acquired.]

AND COMPETENCES

Living and working with other people, in multicultural environments, in positions where communication is important and situations where teamwork is essential (for example culture and sports), etc.

ORGANISATIONAL SKILLS

[Describe these competences and indicate where they were acquired.]

AND COMPETENCES

Coordination and administration of people, projects and budgets; at work, in voluntary work (for example culture and sports) and at home, etc.

TECHNICAL SKILLS

[Describe these competences and indicate where they were acquired.]

AND COMPETENCES

With computers, specific kinds of equipment, machinery, etc.

ARTISTIC SKILLS

[Describe these competences and indicate where they were acquired.]

AND COMPETENCES

Music, writing, design, etc.

OTHER SKILLS

[Describe these competences and indicate where they were acquired.]

AND COMPETENCES

Competences not mentioned above.

DRIVING LICENCE(S)

ADDITIONAL INFORMATION

[Include here any other information that may be relevant, for example contact persons, references, etc.]

ANNEXES

[LIST any attached annexes.]

ANNEX IV - DECLARATION ON EXCLUSION CRITERIA

To be completed and signed by the tenderer (by each Consortium member, in case of Consortia)

The undersigned:

Name of the individual/company/organisation:

Legal address:

Registration number/ID Card No.:

VAT number:

Declares on oath that the individual/company/organisation mentioned above is not in any of the situations mentioned below:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of *res judicata*;
- c) they have been guilty of grave professional misconduct proven by any means which EASA can justify;
- d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- e) they have been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- f) following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

I the undersigned understands that contracts may not be awarded if during the procurement procedure the individual/company/organisation mentioned above:

- is subject to a conflict of interest;
- is guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information;

Full name:

Date & Signature:

ANNEX V - LEGAL ENTITY FORM

to be downloaded from the following website:

http://ec.europa.eu/budget/execution/legal_entities_en.htm

ANNEX VI - FINANCIAL IDENTIFICATION FORM

FINANCIAL IDENTIFICATION

<u>ACCOUNT HOLDER</u>	
NAME	<input type="text"/>
ADDRESS	<input type="text"/>
TOWN/CITY	<input type="text"/> POSTCODE <input type="text"/>
CONTACT PERSON	<input type="text"/>
TELEPHONE	<input type="text"/> FAX <input type="text"/>
E - MAIL	<input type="text"/>
PERSONAL NUMBER	<input type="text"/>
INSTITUTION	<input type="text"/>

<u>BANK</u>	
BANK NAME	<input type="text"/>
ADDRESS	<input type="text"/>
TOWN/CITY	<input type="text"/> POSTCODE <input type="text"/>
ACCOUNT NUMBER	<input type="text"/> - <input type="text"/> - <input type="text"/>
IBAN	<input type="text"/>
SWIFT	<input type="text"/>

REMARKS :

<u>BANK STAMP + SIGNATURE BANK REPRESENTATIVE</u> (Both Obligatory)

<u>DATE + SIGNATURE ACCOUNT HOLDER :</u> (Obligatory)

ANNEX VII - TENDER SUBMISSION FORM

EASA.2009.OP 21

One signed original of this tender submission form must be supplied, together with three copies.

1. SUBMITTED by (i.e. the identity of the Tenderer)

	Name(s) of legal entity or entities submitting this tender	Nationality ¹
Leader		
Member 2		
Etc ... ²		

2. SUBCONTRACTORS (if applicable)

	Name(s) of the legal entity or entities identified as sub-contractor(s)	Nationality
Sub-contractor 1		
Etc ... ³		

¹ Country in which the legal entity is registered

² Add / delete additional lines for consortium members as appropriate. **Note that a sub-contractor IS NOT considered to be a consortium member.** If this tender is being submitted by an individual legal entity, the name of the legal entity should be entered as "Leader" (and all other lines should be deleted).

³ Add / delete additional lines for sub-contractors as appropriate.

3. CONTACT PERSON for this tender (to act as focal point for all communication which may take place between EASA and the Tenderer)

Name	
Organisation	
Address	
Telephone	
Fax	
e-mail	

4. STATEMENT

I, the undersigned, being the authorised signatory of the above Tenderer (including all consortium members, in the case of a consortium), hereby declare that we have examined and accept without reserve or restriction the entire contents of the Tender Specifications for the tender procedure referred to above.

We are fully aware that, in the case of a consortium, the composition of the consortium cannot be modified in the course of the tender procedure except with the prior written authorisation of the Agency.

We are also aware that the consortium members have joint and several liability towards the Agency concerning its participation in both the above procedure and any contract awarded to us as a result of it.

ENVELOPE A (ADMINISTRATIVE)	
<ul style="list-style-type: none"> ▪ The duly filled in, signed and dated Exclusion Criteria Declaration(s) by every legal entity identified under point 1 and point 2 of this tender submission form 	<input type="checkbox"/>
<ul style="list-style-type: none"> ▪ The duly filled in, signed and dated Legal Entity Form (<i>using the standard template in Annex V of the Tender Specifications</i>) and the supporting documents requested therein for every legal entity identified under point 1 and point 2 of this tender submission form 	<input type="checkbox"/>
<ul style="list-style-type: none"> ▪ The duly filled in, signed and dated Financial Identification Form (<i>using the standard template in Annex VI of the Tender Specifications</i>) to nominate the single bank account into which payments would be made in the event that our tender is successful 	<input type="checkbox"/>
<ul style="list-style-type: none"> ▪ Documents proving our economic and financial status (in line with section 3.2.2 of the Tender Specifications) 	<input type="checkbox"/>
<ul style="list-style-type: none"> ▪ Documents proving our technical and professional capacity (in line with section 3.2.3 of the Tender Specifications) 	<input type="checkbox"/>
<ul style="list-style-type: none"> ▪ The statement containing the name and position of our authorised signatory 	<input type="checkbox"/>
<ul style="list-style-type: none"> ▪ <i>If applicable</i>: A consortium statement (in line with Section 1.4 of the Tender Specifications) 	<input type="checkbox"/>
ENVELOPE B (TECHNICAL)	
<ul style="list-style-type: none"> ▪ Our Technical Proposal (in line with Section 4.3 of the <i>Tender Specifications</i>) 	<input type="checkbox"/>
ENVELOPE C (FINANCIAL)	
<ul style="list-style-type: none"> ▪ Our Financial Proposal (<i>using the standard template in Annex II of the <i>Tender Specifications</i></i>) 	<input type="checkbox"/>

This tender is subject to acceptance within the validity period stipulated in section 1.7 of the Tender Specifications.

Signed on behalf of the Tenderer

Name	
Signature	
Date	

ANNEX VIII - STATEMENT OF ABSENCE OF CONFLICT OF INTERESTS

<Letterhead of the Tenderer>

I, the undersigned, being the authorised signatory for the above-mentioned company/consortium for the tender EASA.2009.OP 21,

I hereby solemnly declare that we are not in any situation which could give raise to a conflict of interest in what concerns the implementation of the contract. In the event of the contract being awarded to us, we commit ourselves to act with complete impartiality and in good faith in what concerns its performance and outcome.

.....
Date and Signature