

CALL FOR TENDERS No GSA/OP/04/2011

Engineering Services for GSA

Open procedure

TENDER SPECIFICATIONS

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1. Information about Tender Invitation

These specifications follow the publication of the contract notice in the Official Journal (ref: 2011/S252-410614 on 31 December 2011)

1.1. Nature of the contract and procurement process

This contract is a Framework Service Contract for the provision of support to the Galileo and EGNOS Programme Management team.

The Framework Service Contract will be procured applying the open procedure as indicated in the contract notice. The Framework Service Contract will be construed as a single supplier framework contract, meaning specific contracts may be placed directly on the one contractor, to whom the Framework Service Contract has been awarded. The Agency is under no obligation to place specific contracts with the contractor of the Framework Service Contract.

The procurement will be executed along the following timetable (estimated dates are not binding and may be adjusted as circumstances may require):

TIMETABLE	Date	Comments
Launch of tender	31 December 2011	All documents available at: http://www.gsa.europa.eu/go/gsa/procurement
Deadline for request of clarifications from GSA	17 February 2012	All requests have to be sent in writing to: tenders@gsa.europa.eu
Last date on which clarifications are issued by GSA	20 February 2012	All clarifications will be published at: http://www.gsa.europa.eu/go/gsa/procurement
Deadline for submission of tenders	24 February 2012 16:00	Please see the Invitation to Tender for precise delivery conditions

Opening session	28 February 2012	11h00 in GSA premises in Brussels
Signature of framework contract	March 2012	Estimated

1.2. Background

Galileo is Europe's own global navigation satellite system, providing a highly accurate, guaranteed global positioning service under civilian control. It is inter-operable with the US GPS and the Russian GLONASS, the two other global satellite navigation systems.

By offering dual frequencies as standard, Galileo will deliver real-time positioning accuracy down to the metre range. It will guarantee availability of the service under all but the most extreme circumstances and will inform users within seconds of any satellite failure, making it suitable for safety-critical applications such as guiding cars, running trains and landing aircraft.

EGNOS (European Geostationary Navigation Overlay Service) is essentially Europe's 'pre-GALILEO' system, its first concrete venture into satellite navigation. EGNOS providing augmentation signals based upon the GPS and GLONASS systems, re-transmitting them through geostationary satellites and a network of ground stations. This makes them suitable for safety critical applications such as flying aircraft or navigating ships through narrow channels.

EGNOS will increase the accuracy of existing satellite positioning services to below five metres, compared with an accuracy of about 20 metres with GPS and GLONASS. Moreover, it provides a crucial 'integrity message', informing users in the event of problems with the satellites. It also transmits an extremely accurate universal time signal.

The objective of the framework contract described in this document is the provision of technical management support to the European GNSS Agency (GSA) for the preparatory tasks related to the Galileo and EGNOS exploitation phase. Specifically, the support required by the present contract concerns:

- The critical analysis of the Galileo and EGNOS exploitation concept as well as assessment and implementation of the identified solutions.
- Short- and medium-term support to the Agency for engineering and project management tasks of the Galileo and EGNOS programmes

As an official European Union agency, the European GNSS Agency (GSA) manages public interests related to European GNSS programmes. Its strategic objectives include the achievement of a fully operational Galileo system. This includes the laying of foundations for a fully sustainable and economically viable system and its security. Moreover, the Agency's key objective is to make Galileo not just a functioning system but also the world's leading satellite navigation system for civilian applications.

The GSA was established as a Community Agency on 12 July 2004, by Council Regulation (EC) 1321/2004, status amended in 2006 by Council Regulation (EC) No 1942/2006. The European Council took this important step because of what it saw as the strategic nature of European satellite positioning and navigation programmes, which include both EGNOS and Galileo, and the need to ensure that essential public interests in this field are adequately defended and

represented. With Regulation (EU) No. 912/2010, which entered into force on 9 November 2010, the Regulation (EC) 1942/2004 was repealed and references to it are to be construed as references to Regulation (EU) No. 912/2010. Following recital 5 of Regulation (EU) No. 912/2010 the GSA is no longer to be called European GNSS Supervisory Authority but European GNSS Agency. According to Article 25 of Regulation (EU) No. 912/2010 any measures adopted on the basis of Regulation (EC) 1942/2004 remain valid. Taking this into account, the GSA was restructured into the European GNSS Agency, ensuring the continuity of its activities.

The Agency's predecessor, the Galileo Joint Undertaking (GJU) was set up in May 2002 by the European Community and the European Space Agency to manage the development phase of the GALILEO Programme. The GSA (at the time the "European GNSS Supervisory Authority") officially took over all tasks previously assigned to the GJU on 1 January 2007 which are continued by the GSA as "European GNSS Agency" within the scope of Regulation (EU) No. 912/2010.

Section 4 provides complete technical specifications of the object of the contract.

1.3. Framework Service Contract Starting Date and Task Duration

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

The duration of the tasks assigned through Specific Contracts within the scope of this Framework Service Contract shall not exceed 48 months from the starting date of the Framework Service Contract, unless otherwise specified in the respective Specific Contract.

No Specific Contract within the scope of the Framework Service Contract shall be awarded nor shall any execution of the tasks there under start before the Framework Service Contract has been signed. The period of execution of the tasks under Specific Contracts may be extended, only with the written agreement of the contracting parties, before the end of the period originally stated in the Framework Service contract.

1.4. Terms of Payment

Payments shall be made in accordance with Articles I.3, I.4, II.15, and II.16 of the draft Framework Service Contract (Annex 5.2).

The schedule and the procedure for the approval of payments and the documents to be submitted are described in Articles I.4, II.15 II.16 and II.17 of the draft Framework Service Contract referred to above.

1.5. General Terms & Conditions for Tender Submission

The present tender documents are drawn up in respect of the Financial Regulation applicable to the general budget of the European Communities (Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 as amended by Council Regulation (EC, Euratom) N° 1995/2006 of 13 December 2006), as well as its implementing rules (Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 as amended by i) Commission Regulation 1261/2005 of 20 July 2005, ii) Commission Regulation 1248/2006 of 7 August 2006 and iii) Commission Regulation (EC, Euratom) No 478/2007 of 23 April 2007), hereinafter referred to as the Financial Regulation.

Participation in tendering procedures is open on equal terms to all natural and legal persons

from one of the EU Member States and the EEA.

- Where the Plurilateral Agreement on Government Procurement concluded within the WTO applies, the contracts are also open to nationals of the countries that have ratified this Agreement, on the conditions it lays down. In that connection, it should be noted that the services under Annex IIB to Directive 2004/18/EC and the R&D services listed in category 8 of Annex IIA to that Directive are not caught by the Agreement;
- Operators in third countries which have signed a bilateral or multilateral agreement with the Union in the field of public procurement must be allowed to take part in the tendering procedure on the conditions laid down in this agreement. The Agency refuses tenders submitted by operators in third countries which have not signed such agreements for the present call for tender.

The Agency shall not reimburse expenses incurred in preparing and submitting tenders.

The Protocol on the Privileges and Immunities or, where appropriate, the Vienna Convention of 24 April 1963 on Consular Relations shall apply to this invitation to tender.

Variants are not allowed.

1.6. Place of Performance

The place of performance of the tasks shall be the GSA's premises, unless agreed otherwise between the contractor and the GSA. The premises of the Agency are located in Brussels, Belgium, until June 2012 and from then on also in Prague, the Czech Republic.

1.7. Subcontracting

Subcontracting is defined as the situation where a contract has been or is to be established between the Agency and a contractor and where the contractor, in order to carry out that contract, enters into legal commitments with other legal entities for performing part of the service. However, the Agency has no direct legal commitment with any subcontractor(s) and the contractor shall refrain from establishing any such commitment in his/her relation with his/her subcontractors.

At the level of the liability towards the Agency, tasks provided for in the contract may be entrusted to subcontractors, but the contractor retains full liability towards the Agency for performance of the contract as a whole.

Accordingly:

- The Agency will treat all contractual matters (e.g. payments) exclusively with the contractor, whether or not the tasks are performed by a subcontractor;
- The Agency will privilege direct contacts with the contractor, who is responsible for executing the contract;
- Under no circumstances can the contractor avoid liability towards the Agency on the grounds that the subcontractor is at fault, nor may the contractor request exoneration of his/her duties towards the Agency with regard to any acts or omissions of third parties affecting the execution of the contract unless explicitly specified in the contract.

Any subcontracting may be subject to certain general conditions in the contract in particular the provisions on subcontracting, checks and audits, and confidentiality. Where justified by the subject matter of the contract, a statement of confidentiality may be required to be submitted to the Agency.

Any subcontracting arrangement between the contractor and his/her subcontractor shall flow down and render directly applicable all those contractual obligations of the contractor towards the Agency relevant for the performance of the contract by the subcontracted services. Tenderers shall in particular observe the obligation to inform the subcontractor(s) and include in their sub-contracting documents that Article II.20 of the draft Framework Service Contract (Annex 5.2) may be applied to sub-contractors.

Consequently, the tender must clearly identify the subcontractor(s), and the parts of the work that will be sub-contracted and to what extent (proportion in %).

Any intended subcontractor of the tenderer shall submit a duly signed and dated commitment with the tender, confirming their irrevocable undertaking to collaborate with the tenderer, should he/she win the contract and that he/she – the subcontractor – will put all appropriate and necessary resources from their part at the tenderer's disposal for the performance of the contract. The subcontractors shall further clearly document their willingness to accept the tasks subject to the subcontracting and they have to clearly express their acceptance of the terms and conditions set out in section 1.9 above, in particular article II.20 of the draft Framework Service Contract by returning the form in annex 5.5, filled in and signed.

Once the contract has been signed, Article II.6 of the draft Framework Service Contract shall govern the subcontracting.

Where no sub-contracting is indicated in the tender the work will be assumed to be carried out directly by the contractor.

1.8. Joint Tenders

A joint tender is a situation where a tender is submitted by a group of economic operators. If awarded the contract, the economic operators of the group will have an equal standing towards the Agency in executing a supply, service or works contract; they assume joint and several liability for the performance of the contract and any duties connected therewith.

The Agency will not request a group to have a given legal form in order to be allowed to submit a tender, but reserves the right to require the group to adopt a given legal form before the contract is signed if this change is necessary for proper performance of the contract. This can take the form of an entity with or without legal personality but offering sufficient protection of the Agency's contractual interests.

Groups must nominate one economic operator of the group to be responsible for the receipt and processing of payments for members of the group, for managing the service administration, and for coordination. The documents required and listed in the present specifications must be supplied by every member of the group; the checklist in annex 5.7 will help verifying the level of information to be provided according to the role of each entity in the tender.

The tender has to be signed by all members of the group. However, if the members of the group so desire they may grant an authorisation to one of the members of the group to sign the contract in their name. In this case they should attach to the tender a power of attorney (see model in annex 5.6). For groups not having formed a common legal entity, model 1 should be used, and for groups with a legal entity in place, model 2 should be used.

The contract will have to be signed by all members of the group. If the members of the group so desire, they may grant authorisation to one of the members of the group by signing a power of attorney. The same model as above duly signed and returned together with the tender (see annex 5.6) is valid also for signature of the contract.

Each member of a group assumes joint and several liabilities towards the Agency for the



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performance of the contract as a whole.

Statements, saying for instance: "that one of the partners of the joint tender will be responsible for part of the contract and another one for the rest," or "that more than one contract should be signed if the joint tender is successful," are thus incompatible with the principle of joint and several liability. The Agency will disregard any such statement contained in a joint tender, and reserves the right to reject such tenders without further evaluation, on the grounds that they do not comply with the tendering specifications.

2. Form and content of the tender

2.1. General

Tenders must include the following information:

- All the information and documents requested by the Agency in order to assess the tender. In order to help tenderers presenting a complete tender, a checklist of the documents to submit is provided in annex 5.7. This checklist does not need to be included in the tender but we encourage to use it in order to ease the assessment of the tenders;
- The price in euro (for details ref. to section 2.3.3);
- One specimen signature of an authorised representative on the legal entity form (http://europa.eu/comm/budget/execution/legal_entities_fr.htm), and a statement confirming the validity of the tender (preferably in blue ink), the tender must provide evidence of the authorisation to sign in name of the tenderer (Note: A Legal entity form is to be submitted by the Coordinator or group leader in a joint tender, all partner in a joint tender, any single or main contractor and any subcontractor as the case maybe – ref. annex 5.7);
- The name of a contact person in relation to the submission of the tender.

2.2. How to Submit a Tender

Tenderers shall observe precisely the indications in point 3 and 4 of the call for tenders in order to ensure their tenders are admissible.

Evidence of timely submission by post or courier service will be constituted by the date of dispatch, the postmark or the date of the deposit slip. In the case of hand-delivery, the signed and dated receipt will serve as evidence.

Late submission will lead to the outright non admissibility of the tender and its rejection from the award procedure for this contract. Tenders sent by e-mail or by fax will also be non-admissible. Envelopes found open at the opening session will also lead to non-admissibility of the tender. Consequently, tenderers must ensure that their tenders are packed in such a way as to prevent any accidental opening during its mailing.

2.3. Structure of the Tender

All tenders must be presented in five sections:

- Section one: Administrative information – Presentation of the tender (see section 2.1 & 2.3.1)
- Section two: Evidence relating to the exclusion criteria (see section 3.1)
- Section three: Evidence relating to the selection criteria (see section 3.2)
- Section four: Technical Proposal – Addressing technical specifications and award criteria (see section 2.3.2, 3.3 and 4)

- Section five: Financial Proposal (see section 2.3.3)

2.3.1. SECTION ONE: ADMINISTRATIVE PROPOSAL

a) Tenderers may choose between presenting a joint tender (see section 1.13) and introducing a tender as a sole contractor, in both cases with the possibility of having one or several subcontractors (see section 1.12).

Whichever type of tender is chosen, the tender must stipulate the legal status and role of each legal entity in the tender proposed and the monitoring arrangements that exist between them and, failing this, the arrangement they foresee to establish if they are awarded the contract (see section 1.12 and 1.13).

b) To identify him-/herself the tenderer and any economic operator as indicated under annex 5.7 must fill in and submit with the tender a Legal Entity Form and a Financial Identification Form:

- The Legal Entity Form is to be signed by a representative of the tenderer authorised to sign contracts with third parties. There is one form for individuals, one for private entities and one for public entities. Specific forms in each Member State language are available at :

http://europa.eu/comm/budget/execution/legal_entities_fr.htm

- The Financial identification form shall be duly filled in and signed by an authorised representative of the tenderer and his/her banker. A specific form for each Member State is available at the following Internet address:

http://europa.eu/comm/budget/execution/ftiers_fr.htm.

The Legal Entity Form must be accompanied by all the information indicated in the form. When neither this form nor the evidence to be attached to them includes the following information, the tender must include:

For private and public entities:

- A legible copy of the notice of appointment of the persons authorised to represent the tenderer in dealings with third parties and in legal proceedings, or a copy of the publication of such appointment if the legislation which applies to the legal entity concerned requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.

For Individuals:

- Where applicable, a proof of registration, as prescribed in their country of establishment, on one of the professional or trade registers or any other official document showing the registration number.

All tenderers must provide their legal entity files as well as the necessary evidence. Only subcontractors are requested to provide solely the legal entity file without evidence.

Economic operators already registered as a legal entity in the Agency's files (i.e. they are or have been contractors of the Agency) are not obliged to provide the evidence requested in the form, on condition they indicate in their tender the references of the procedure and the Agency's department for which this evidence was already provided.

2.3.2. SECTION FOUR: TECHNICAL PROPOSAL

Tenderers must include in their tenders the technical proposal addressing all aspects detailed in the specifications set out in section 4 below.

The technical proposal must respond to these technical specifications and provide, as a minimum, all the information needed for the purpose of awarding the contract.

Please note that, to grant equal treatment of all tenders, it is not possible to modify tenders after the deadline for submission. As a consequence, incompleteness in this section can only result in negative impact for the evaluation of award criteria. Please note also, that proposals deviating from the technical specifications may be rejected for non-conformity.

For sake of comparability of the assessments each tenderer shall submit in his/her technical proposal a full text describing his/her understanding with regard to the award criteria as laid down under section 3.3.2 below.

Following the header "Understanding the specifications" the text shall be structured into separate sections in accordance with the five different aspects laid down under Category No. 1 under section 3.3.2. In the resulting first section titled "Understanding, analysis and critical review of the tasks to be performed" all the tasks mentioned under section 4.5 should be considered as basis for any good score.

Following the header "Adequacy of proposed support" the text shall provide detailed elaborations to all the five different aspects laid down under Category No. 2 under section 3.3.2.

All aspects mentioned under the respective categories shall be equally taken into account in the assessment of each tender; tenderers should therefore aim to provide details to each aspect for any good score.

The technical specifications and the tenderer's tender shall form integral parts of the contract and will constitute annexes to the contract.

2.3.3. SECTION FIVE: FINANCIAL PROPOSAL

The tenderer's attention is drawn to the following points:

- Prices must be expressed in euro;
- Prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT, as the Communities are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 (OJ L 152 of 13 July 1967). Exemption is granted to the Agency by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption;
- For those countries where national legislation provides an exemption by means of a reimbursement, the amount of VAT is to be shown separately. In case of doubt about the applicable VAT system, it is the tenderer's responsibility to contact his/her national authorities to clarify the way in which the European Community is exempt from VAT;
- Prices shall not be conditional and be directly applicable by following the technical specifications;

- Prices shall be fixed and not subject to revision;

The tenderer shall submit fee quotations for two categories of advisors (junior and senior advisors) for which he/she must specify each:

- The hourly fee applicable for work performed at the tenderers office(s) regardless of their duration and for missions outside of the tenderers office(s) with a duration of less than 8 hours of work per calendar day (without travel time);
- The daily fee applicable for missions outside of the tenderers office(s) with duration of more than 8 hours of work (without travel time) per calendar day;

Note: Mere travel time without working for the Agency as referred to in the brackets above shall not be reimbursed and shall not be taken into account in the calculation of fees!

Tenderers must use the following format to formulate their financial proposal:

Advisor Fees	Hourly fee in Euro	Daily fee in Euro
Junior Advisors (see 3.2.1 for minimum capacity requirements)		
Senior Advisor (see 3.2.1 for minimum capacity requirements)		

NOTE: Calculation of the fees has to be made on the assumption that the respective advisor is expected to provide on-site support to the Agency at it's premises for an average of 3 work days per week for the entire duration of the framework contract, applying the respective daily fee, and an additional 10 hours per week which may be either performed at the GSA's premises or at the respective advisors registered office applying the respective hourly fee. For basis of calculation it shall further be assumed that the premises of the Agency are located in Brussels, Belgium, until June 2012 and from then on also in Prague, the Czech Republic. For the provision of this on-site support there will be neither claim for further allowance nor reimbursement of travel costs paid under the Framework Service Contract or any specific contract awarded there under. Travel expenses for provision of services other than on-site as described above and locations outside the registered advisor's office as indicated in the tender and only following a prior written request by the Agency involving the performance of tasks in any other location shall be reimbursed in accordance with the mission rules for the Agency staff as to reimbursement of travel expenses forming an integral part of the Framework Service Contract (Annex IV).

The Agency will reject tenders where no technical tenders or financial tenders are proposed.

Non-conformity with the requirements for the mandatory ("shall") structure of the technical proposal in section 2.3.2 will also result in rejection of the tender.

The Agency reserves the right, however, to request clarification or additional evidence in relation to the exclusion and selection stages after the opening within a time-limit stipulated in its request and in the conditions explained in section 1.6.

3. Assessment and Award of Contract

The assessment will be based on the information provided in the tender. The Agency reserves the right to use any other information from public or specialist sources.

This assessment will be performed by applying the criteria set out in these specifications. To award of the Framework Service Contract, the assessment of admissible tenders (see section 2.2) will be carried out in three successive stages. Only tenders meeting the requirements of one stage will be examined in the next stage.

The aim of each of these stages is:

- 1) To check, in the first stage (exclusion criteria), whether tenderers can take part in the tendering procedure and, where applicable, be awarded the Framework Service Contract;
- 2) To check, in the second stage (selection criteria), the technical and professional capacity and economic and financial capacity of each tenderer who has passed the exclusion stage;
- 3) To assess on the basis of the award criteria the technical and financial tenders and establish a ranking list, by order of merit, of all tenders having passed the exclusion and selection stages, as well as the quality thresholds set for the assessment of the award criteria.

3.1. Stage 1 – Application of Exclusion Criteria and Exclusion of Tenderers

3.1.1. DECLARATION

Tenderers or their representatives shall provide a declaration on their honour, duly signed and dated in which they:

- State whether or not they are in one or more of the situations referred to in Articles 93 and 94 of the Financial Regulation and detailed in the form;
- Undertake to submit to the Agency any additional document relating to the exclusion criteria, that the Agency considers necessary to perform its checks, within seven calendar days following the receipt of the Agency's request.

To this end, tenderers must fill in and sign the form in annex 5.1 to these specifications.

Where the tender involves more than one legal entity (including members of a group and any subcontractors), each entity must provide the form.

Any total or partial omission for which one or more legal entities involved in the tender are responsible may lead the Agency to exclude the tender from the procedure, in accordance with Articles 93 and 94 of the Financial Regulation.

3.1.2. GROUNDS FOR DISQUALIFICATION

In accordance with Articles 93 and 94 of the Financial Regulation, tenderers shall be excluded from the selection and award procedures if they do not satisfy criteria a) to f) specified in the standard form in annex 5.1.

In addition, contracts may not be awarded to tenderers who, during the procurement procedure are subject to a conflict of interest (criteria g) or are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation



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in the contract procedure or fail to supply this information (criteria h) or fall into one of the situations as specified under criteria a) to f).

If a member of a group/consortium is subject to exclusion, the rest of the group/consortium shall be excluded.

If a subcontractor is subject to exclusion, the entire tender shall be excluded.

3.1.3. EVIDENCE

The tenderer to whom the contract is to be awarded shall provide, within the 15 calendar days following the receipt of the letter informing him/her of the proposed award of the contract and preceding the signature of the contract, the following evidence confirming the declaration referred to in section 3.1.1:

1. The Agency shall accept as satisfactory evidence that the tenderer (including any members of his/her group and any subcontractors, as the case may be) is not in one of the situations described in point (a), (b) or (e) of Article 93(1) of the Financial Regulation, a recent extract from the respective legal entity or legal entities judicial record(s) 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;
2. The Agency shall accept, as satisfactory evidence that the tenderer (including any members of his/her group and any subcontractors, as the case may be) is not in the situation described in point (d) of Article 93(1) of the Financial Regulation, a recent certificate, and in case of a group acting as tenderer and any subcontractors recent certificates regarding each of these legal entities issued by the competent authority of the respective State;
3. Where the document or certificate referred to in paragraphs 1 & 2 is not issued in the country concerned and for the other cases of exclusion referred to in Article 93 of the Financial Regulation, 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/her country of origin or provenance;
4. Depending on the national legislation of the country in which the tenderer (including any members of his/her group and any subcontractors, as the case may be) is established, the documents referred to in paragraphs 1, 2, 3 above and 3.1.1 shall relate to legal persons and/or natural persons including, where necessary, company directors or any person with power of representation, decision-making or control in relation to the respective legal entity. This would be the case when the national legislation concerned gives juridical responsibility of the acts committed by a legal entity (moral persons) to their legal representatives. The tenderer (including any members of his/her group and any subcontractors, as the case may be) shall provide information on the ownership or on the management, control and power of representation of the respective legal entity whenever necessary for the proper understanding of the evidence submitted or whenever the Agency requests it;
5. In case of doubt as to whether tenderer (including any members of his/her group and any subcontractors, as the case may be) is in one of the situations of exclusion, the Agency may itself apply to the competent authorities referred to in paragraph 3 to obtain any information they consider necessary about that situation;
6. The Agency may waive the obligation of a tenderer to submit the documentary evidence referred to in paragraphs 1 and 2 if such evidence has already been submitted to it for the purposes of another procurement procedure and provided that the issuing date of the documents does not exceed one year and that they are still valid. In such a case, the tenderer (including any members of his/her



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group and any subcontractors, as the case may be) shall declare on his/her honour that the documentary evidence has already been provided to the Agency in a previous procurement procedure and confirm that no changes in the respective legal entity's situation have occurred. He/she shall indicate in its tender all the references necessary to allow the Agency to check this evidence.

3.1.4. ADMINISTRATIVE AND FINANCIAL PENALTIES

By returning the form in annex 5.1, duly signed, tenderers confirm that they have been notified of the following points.

Administrative or financial penalties may be imposed by the Agency on tenderers (including any members of his/her group and any subcontractors, as the case may be) who are in one of the cases of exclusion provided for in section 3.1.2 above after they have been given the opportunity to present their observations.

These penalties are detailed in Article 96 of the Financial Regulation and Articles 133a and 134b of the Regulation laying down the rules for the implementation of the Financial Regulation. We invite tenderers (including any members of his/her group and any subcontractors, as the case may be) to read carefully these articles.

3.2. Stage 2 - Application of Selection Criteria (Selection of Tenderers)

This part of the tender concerns the criteria and evidence relating to the technical and professional capacity and economic and financial capacity of the service provider(s) involved in the tender. It should also contain any other document that the tenderer(s) wish(es) to include by way of clarification.

An economic operator may rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. In that case, evidence must be provided that it will have at its disposal the resources necessary for performance of the contract, for example by producing a clear undertaking on the part of those entities to place those resources at its disposal.

If several service providers are involved in the tender, each of them must have the professional and technical capacity to perform the tasks assigned to them in the tender and the necessary economic and financial capacity.

This rule applies to all legal entities once they have chosen to be tenderers. If the tender includes subcontractors, the Agency reserves the right to request evidence of their economic and financial capacity if the tasks subcontracted represent a substantial part of the contract.

3.2.1. SELECTION CRITERIA

SELECTION CRITERIA
1. FINANCIAL AND ECONOMIC CAPACITY
<ul style="list-style-type: none"> • Sufficient economic and financial capacity to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract. • Sufficient financial capacity in relation to any pre-financing foreseen under the contract. • Reliability of the mitigating measures presented to cover possible deficiencies in the evidence presented for the above criteria. <p>è Minimum annual turnover for the last three financial years must not be below EUR 1,500,000 (one million five hundred thousand euros) Regarding groups/consortia, the requirements shall be fulfilled by at least one member of that groups/consortium!</p>
2. TECHNICAL AND PROFESSIONAL CAPACITY
<p>The tenderer shall provide proof of experience of the advisors dedicated to work on the project.</p> <p>The tenderer shall at minimum propose 4 (four) senior advisors and 2 (two) junior advisors as dedicated advisors in his/her tender.</p> <p>Regarding proposed senior advisors (capacity of each advisor):</p> <ul style="list-style-type: none"> • General experience in project management of a minimum of 5 years. • Proof of experience in project management in the last 4 years of a minimum of 2 projects with a project value of at least EUR 20 000 000 (twenty million euros) each, each involving at least 3 parties from at least 2 different EU Member States. Project management experience provided shall include conceivable ability to synthesize relevant information in support of decision making processes, and/or quality assurance experience in drafting reports and management recommendations). • Proof of project control experience (schedule maintenance, risk registers, meeting organisation, project milestones and associated dependencies, critical path analysis) gained in the last 4 years of a minimum of 2 projects with a project value of at least EUR 20 000 000 (twenty million euros) each, each involving at least 3 parties from at least 2 different EU Member States. The experience may have been gained in the projects informed about under the previous bullet or other projects. • Proof of capacity to work and communicate efficiently in English (written and oral).

Regarding proposed junior advisors (capacity of each advisor):

- General experience in project management of a minimum of 5 years.
- Participation in project management during the last 4 years of a minimum of 2 projects, each involving parties from at least 2 different EU Member States. Project management experience provided shall include proof of ability to synthesize relevant information in support of decision making processes, and/or quality assurance experience in drafting reports and management recommendations).
- Proof of capacity to work and communicate efficiently in English (written and oral).

At least two of the dedicated advisors should further provide evidence of:

- Proof of experience with public procurement procedures;
- Proof of experience with support to the preparation, evaluation and negotiation of satellite operations and/or satellite service provision contracts;
- Proof of experience with devising service level agreements (SLAs);
- Proof of experience with delegation agreements between EU Institutions and/or international Organisation;
- Proof of experience with defining key performance indicators (KPIs) and management requirements for satellite operations.
- Proof of at least 2 years technical experience in the field of space and ground segment development programmes gained by direct involvement in such programmes (knowledge of satellite navigation, including Space Based Augmentation Systems (SBAS) and knowledge of geostationary satellites space-to-ground interfaces).
- Proof of technical experience in system integration, space and ground segment procurement and operations gained through direct involvement into at least two separate space projects.
- Proof of experience in standard space programme development cycles.

Proof of technical understanding of geostationary satellites space-to-ground interfaces.

These criteria will be assessed on the basis of the documents referred to in section 3.2.2 and 3.2.3.

Tenderers should take note that the performance of tasks under particular Specific Contracts is likely to require a personal security clearance for handling of classified information. This requirement is not made a criterion for awarding the Contract. However, non-compliance at a later stage may seriously restrict the placing of Specific Contracts throughout the lifetime of the Framework Contract.

Mandatory for award of the Framework Contract and any specific contract there under is in any case the acceptance and signature of the Non-Disclosure Agreement (Annex V)

3.2.2. EVIDENCE OF THE ECONOMIC AND FINANCIAL CAPACITY OF THE SERVICE PROVIDER(S)

All tenderers (including any members of their group and any subcontractors planned to perform more than 20% of the estimated total contract value of EUR 7,000,000 (seven million euros) and/or referred to by the tenderer as proof of his/her economic and financial capacity, as the case may be) must provide proof of their economic and financial capacity by submitting

the following documents:

- a) Each tenderer shall submit fully completed tables under annex 5.4, consisting of an extract of the concerned legal entities' annual accounts (balance sheet, profit and loss account, notes on the accounts and auditors' remarks when applicable) of the last three years, as approved by the general assembly of the company and, where applicable, audited and/or published. These documents must be signed by the authorised representative of the respective legal entity;
- b) Appropriate statements from banks or evidence of professional risk indemnity insurance, for legal entities facing the impossibility to fully present evidence a).

Note: This does not relieve the tenderer from fulfilling the minimum financial capacity requirement regarding annual turnover under section 3.2.1 above.

If, for some exceptional reason which the Agency considers justified, a legal entity is unable to provide one or other of the above documents, he or she may prove his/her economic and financial capacity by any other document which the Agency considers appropriate. In any case, the Agency must at least be notified of the exceptional reason and its justification in the tender. The Agency reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

3.2.3. EVIDENCE OF THE TECHNICAL AND PROFESSIONAL CAPACITY OF THE SERVICE PROVIDER(S)

The ability of the tenderer to perform services will be assessed in particular with regard to their know-how, efficiency, experience and reliability.

Tenders shall specify the dedicated advisors who will be performing the services for the term of the contract. Any exchange of advisors during the term of the contract shall be subject to the procedure laid down in the draft Framework Service Contract (see Article I.14.2)

Evidence of the technical and professional capacity of the tenderer (including any members of their group and any subcontractors, as the case may be) may be furnished on the basis of the following documents:

- a) The educational and professional qualifications of all persons responsible for providing the services described in the present specification; The Europass curriculum vitae format (http://europass.cedefop.europa.eu/europass/preview.action?locale_id=1) shall be filled in and signed, by each person involved in the execution of the tasks foreseen in the tender. The precise contractual link with the tenderer will also be described; where proof of technical and professional capacity of advisors is requested regarding the selection criteria under section 3.2.2 the respective projects name, duration (start and end date), role and contribution of advisor and value of the project shall be mentioned. Dedicated advisors may refer to the same projects to satisfy the requirements.
- b) A list of the services carried out in the last four years, with the sums, dates, place, and recipients, public or private;

- c) A description of the measures and associated tasks employed to ensure the quality of the services;
- d) A statement of the average annual manpower and the number of managerial staff of the tenderer (including any members of their group and any subcontractors, as the case may be) in the last four years;
- e) An indication of the proportion of the contract which the tenderer may intend to subcontract.

By submitting a tender, each legal entity involved therein accepts the possibility of a check being carried out by the Agency on its technical capacities and, if necessary, on quality control measures.

In addition, all tenderers are informed that they may be asked to prove that they are authorised to perform the contract under national law, as evidenced by inclusion in a professional or trade register or a sworn declaration or certificate, membership of a specific organisation, express authorisation, or entry in the VAT register.

3.3. Stage 3 - Application of Award Criteria (Assessment of Tenders)

The contract will be awarded to the most cost-effective tender.

In a first step all selected tenders will be assessed on the basis of the total price of the financial proposal resulting from the requirements provided under section 2.3.3 above and applying the submitted quotations for junior and senior advisor fees. Any tender which in sum of the fees for 4 senior advisors and 2 junior advisors billing each 3 daily fees and each 10 additional hourly fees per week for 35 weeks per year exceeds a total of EUR 1 450 000 (one million four hundred fifty thousand euros) will be outright excluded from the assessment with no further consideration.

In a second step the remaining tenders are then assessed according to the points achieved in the following qualitative award criteria applied to their technical proposal:

Category No	Qualitative award criteria	Maximum points
1.	<p>Understanding of specifications</p> <ul style="list-style-type: none"> • Understanding, analysis and critical review of the tasks to be performed. • Understanding of the challenges of both the Galileo and EGNOS programs' exploitation phases. • Technical understanding of the Galileo and EGNOS operations concept. • Technical understanding of both the Galileo and the EGNOS system architecture. • Technical understanding of EGNOS development cycles. 	50



Category No	Qualitative award criteria	Maximum points
2.	<p>Adequacy of proposed support</p> <ul style="list-style-type: none">• Compliance to specifications.• Adequacy of the proposed project organisation and processes.• Reliability in terms of sufficient resources to perform the tasks within the period of time foreseen by the contract.• Adequacy, in terms of competency, of the proposed approach for support tasks 1.• Adequacy, in terms of competency, of the proposed approach for support tasks 2.	50
	Total number of maximum points	100

Tenders scoring less than 70 points of the total number of 100 maximum points or less than 30 points in a single category of criteria (max. 50) will be excluded from the following assessment procedure.

In the final third step of evaluation the Framework Service Contract will be awarded to the tender which is the most cost-effective (tenders offering the best value for money) on the basis of the ratio between the total points scored regarding the qualitative award criteria and the price of the respective tender.

Final Evaluation

30% * (Total number of points for price) + 70% * (Total number of points for technical evaluation)

Where Total number of points for price will be computed as follows: Cheapest Price among tenders passing the selection criteria / Price of Tender X + total score for qualitative award criteria reached by tender X passing the exclusion and selection criteria.

Cheapest Price as well as Price of Tender X are each calculated as follows:

One Daily fee Junior Advisor + One Hourly Fee Junior Advisor + One Daily Fee Senior Advisor + One Hourly Fee Senior Advisor

$$\text{score for tender X} = \frac{\text{cheapest price}}{\text{price of tender X}} * 30 + \frac{\text{total quality score (out of 100) for all award criteria of tender X}}{100} * 70$$

(price weighting) (quality criteria weighting)

3.4. Information for Tenderers

If a written request is received, the Agency will inform all rejected tenderers of the reasons for their rejection and all tenderers submitting an admissible tender of the characteristics and relative advantages of the selected tender and the name of the successful tenderer.

3.5. Award of the Contract

GSA/OP/04/2011



After the period of validity of the tender has expired, conclusion of the Framework Service Contract shall be subject to the tenderer's agreement in writing.

The Agency shall not sign the Framework Contract with the successful tenderer until a standstill period of 14 calendar days has elapsed, running from the day after the simultaneous dispatch of the award decisions and decisions to reject.

After the award, during standstill period, the Agency will request the tenderer proposed for award to submit the evidence on exclusion criteria defined in section 3.1.3. If this evidence was not provided or proved to be unsatisfactory the Agency reserves the right to cancel the award procedure or to change the award decision to the benefit of the next best ranked tenderer on condition that he/she satisfies with the provision of the evidence on exclusion.

3.6. Data Protection

You may, upon request, obtain the communication of your personal data and rectify any inaccurate or incomplete personal data. Should you have any queries concerning the processing of your personal data, please address them to invitation to tender and will only be processed by Directorate-General Enterprise and Industry, Unit F6. As regards to the processing of your personal data, you have a right to recourse at any time to European Data Protection Supervisor.

4. Technical Specifications

4.1. Overview of the EGNOS Programme

4.1.1. EGNOS SERVICES AND ARCHITECTURE

EGNOS is designed to improve the performance of the United States' Global Positioning System (GPS). EGNOS makes GPS suitable for safety critical transport applications such as flying aircraft or navigating ships through narrow channels. EGNOS is also designed to be interoperable with similar services provided outside Europe, namely by the Wide Area Augmentation System (WAAS) in the United States, MSAS in Japan, and GAGAN in India. EGNOS transmits a signal containing information on the reliability and accuracy of the positioning signals broadcast by the GPS. EGNOS is able to do this by measuring and correcting the errors that exist in the GPS, allowing users in Europe and beyond to determine their position down to 1-2 meters compared with the 5-10 meters presently available with GPS alone. Through the signals broadcast by the EGNOS geostationary satellites, EGNOS provides:

- Corrections to the GPS errors due to atmospheric delays affecting the GPS signals and other GPS satellite errors, improving the user accuracy;
- Boundaries to any remaining errors with a very high level of confidence. These boundaries are used by a receiver to calculate the maximum remaining positioning error, and this is called integrity.

For this purpose, Ranging and Integrity Monitoring Stations (RIMS) are deployed over the European territories and in North Africa, which collect GPS raw measurements. The network of RIMS is connected to 4 Mission Control Centre (MCC) where integrity, differential corrections and Ionospheric delays are computed by the Central Processing Facility (CPF). These data messages are sent to the Navigation Land Earth Station (NLES) for uplink to the space segment made of geostationary satellites. The satellites broadcast the messages as a GPS-like signal on the GPS L1 frequency. The architecture of the EGNOS system is represented in Figure 1.

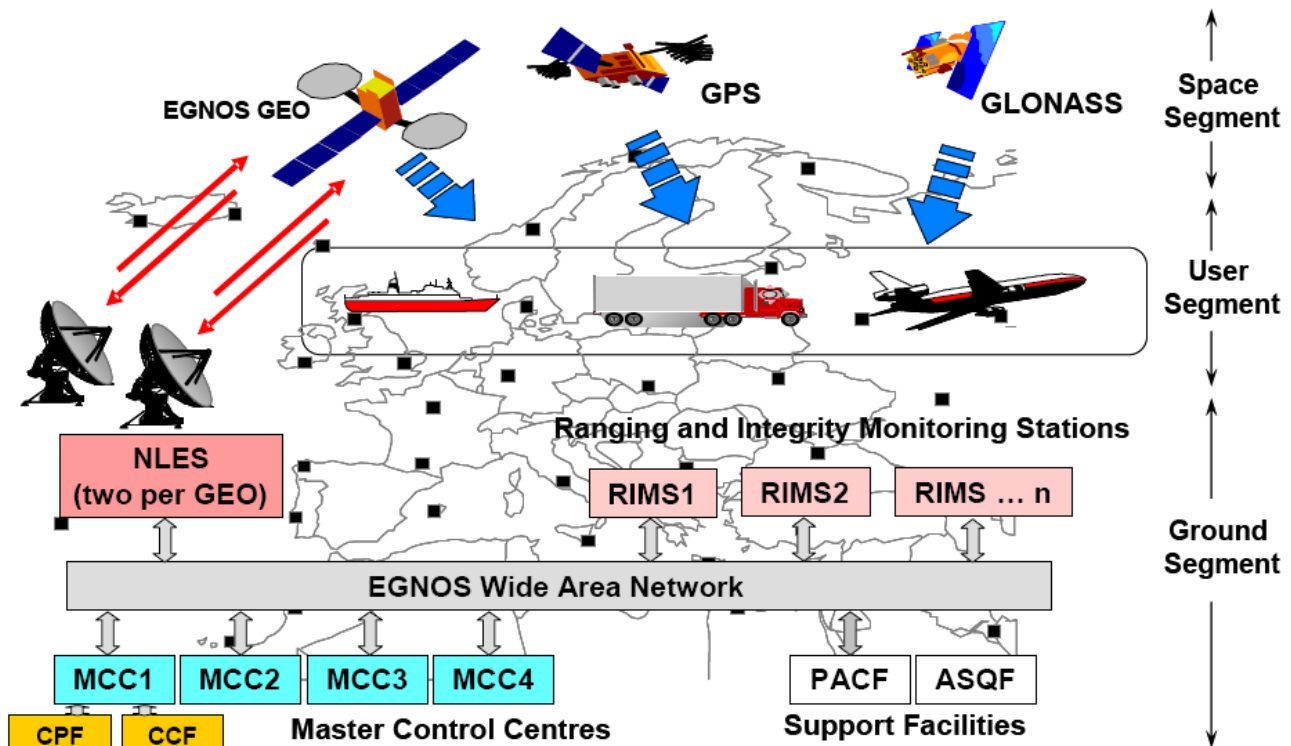


Figure 1 – Overview of the EGNOS System Architecture

4.1.2. PROGRAMME ORGANISATION

Figure 2 presents an overview of the overall relationships between actors of the public and private sector for the EGNOS Service Provision Phase in the period from 2009 to 2013.

The delivery of EGNOS Signal-In-Space involves 4 major actors, namely the European Commission (EC) as owner of EGNOS Assets and Programme Manager, the European Space Agency (ESA) as EGNOS Design Agent, the European Satellite Services Provider (ESSP) as certified EGNOS Service Provider, and the Industry Prime (Thales Alenia Space France – TAS-F) as EGNOS system manufacturer. The consortia led by ESSP and TAS-F involve many subcontractors, not represented in Figure 2.

Through the EC-ESA delegation agreement on EGNOS, ESA handles the procurement of updates of the EGNOS system that leads to the delivery of a new qualified EGNOS System Release (ESR). ESA acts on behalf of EC for the development and qualification of new ESRs, via procurement contracts with TAS-F.

The contract between EC and the ESSP covers the provision of services to end-users, the EGNOS operations, the system maintenance, the certification as Air Navigation Service Provider (ANSP), the management of the end-to-end safety of the delivered Signal-In-Space (SIS). These activities cover what is globally named the 'EGNOS Service Provision'. The system maintenance is subcontracted by ESSP to TAS-F, under the generic name "Product Support Services" (PSS).

The provision of the geostationary transponder services necessary for the EGNOS Service Provision is ensured jointly by ESA for the EGNOS transponder onboard Artemis, and by ESSP (by contract with Inmarsat) for transponders onboard the 2 Inmarsat satellites. In parallel, EC is currently procuring the services of two other geostationary transponders onboard satellites called "GEO-1" and "GEO-2" in Figure 2 with SES-Astra. Both GEO-1 and GEO-2 aim to replace

the currently ageing fleet used for EGNOS.

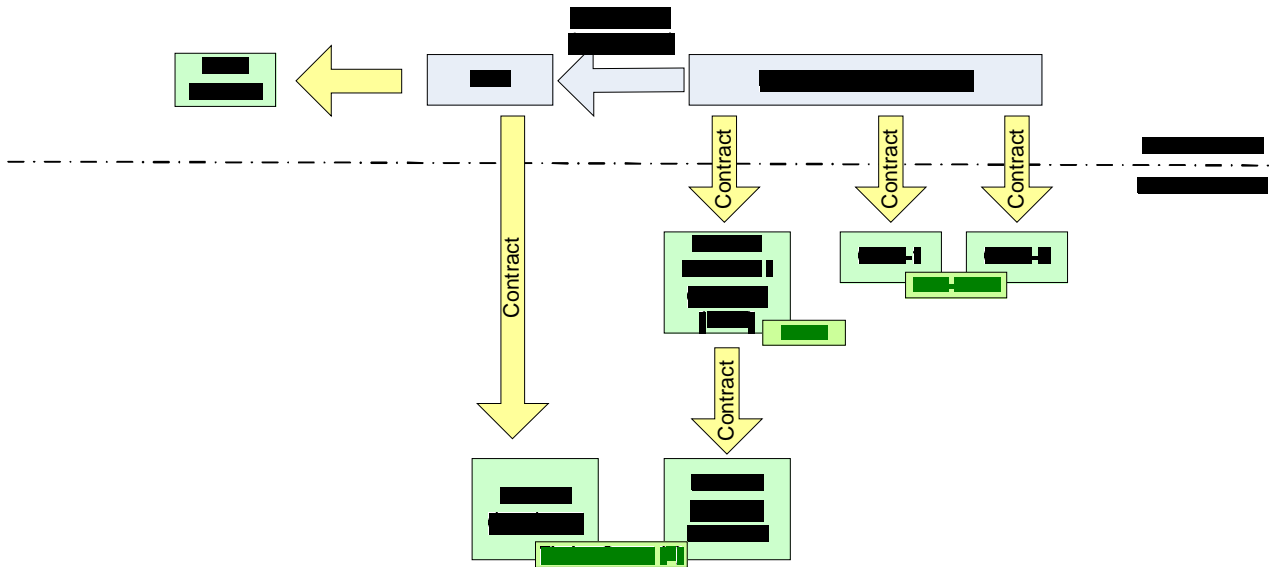


Figure 2: General organisation and Prime contractual frameworks

All contracts placed between the public and the private sector, including the ESA contract with TAS-F follow the financial regulation rules of the European Commission.

4.1.3. PROGRAMME TIMELINE

The EC-ESA Delegation Agreement entered in effect in April 2009. Under the activities delegated to ESA, the development of updates of the EGNOS infrastructure will result in the production of several new versions. EGNOS v2.3.1 has been qualified by ESA end of 2010, and will be complemented with a "Version 2.3.1 Plus" qualified end of 2011, after which date it can be operationally deployed by ESSP. The EGNOS version V 2.3.2 is planned to be qualified in Q2 2012, the v2.4.1 is planned to be qualified in September 2013, and the EGNOS version v2.4.2 is planned to be qualified at the end of 2014. Every version updates some elements of the EGNOS infrastructure.

The current EGNOS Service Provision (ESP) contract between EC and ESSP started on April 1st 2009 and is currently due to expire at the end of 2013. Beyond this contractual date, the EC is committed to ensure that EGNOS Services are provided at least for the next 20 years. The current ESP contract consists in a number of recurrent tasks, such as routine operations and maintenance of the EGNOS infrastructure, service performance monitoring and user support, and some non-recurrent tasks such as the operational deployment of new EGNOS versions and the associated EGNOS Safety-Of-Life (SoL) declaration. The operational deployment of two new version of EGNOS is currently planned in the timeframe of this contract, in Q4 2011 (EGNOS version v2.3.1Plus), and Q2 2012 (version 2.3.2). The next version will be deployed in Q1 2014 (EGNOS version v2.4.1) after the end of the time frame of this contract. The operational deployment of a version v2.4.2 is planned for Q2 2015. The SoL declaration has taken place in March 2011, based on the currently operated EGNOS version 2.2ext.

The GEO-1 transponder in-orbit availability has materialised in November 2011. The planned in-orbit availability date of the GEO-2 transponder is June 2013. After these date the EGNOS activities of SES-Astra will consist in recurrent operations of the geostationary transponder. The GEO-1 and GEO-2 contracts aim to ensure a geostationary transponder capability for EGNOS for at least 15 years after the successful launch.

4.2. Overview of the Galileo Programme

Global Navigation Satellite Systems (GNSS) is the generic term for satellite navigation systems that provide autonomous geo-spatial positioning and time transfer services from satellite constellations ensuring global coverage.

The first GNSS was TRANSIT, developed by the USA (operational from 1964 to 1996). The NAVSTAR programme replaced it with the GPS (operational since 1993), which was the first system to provide truly continuous and global positioning and timing services. Russia developed its own GNSS, named GLONASS (operational since 1995). These systems were developed to provide a solution for military needs and only subsequently became partially available for civilian use.

The Chinese Compass/BeiDou Navigation Satellite System is under development.

As a consequence of the quality of service provided, satellite navigation is becoming the primary means of positioning for many civil applications worldwide. Satellite derived positioning velocity and timing (PVT) solutions have already found widespread application in a large variety of fields and will be an integral part of the Trans European Network. Many safety-critical services in the area of transport and numerous other commercial applications will depend on this infrastructure.

A major concern for current satellite navigation users is the reliability and vulnerability of the navigation signal. Cases of GNSS service disruption have been reported with increasing frequency and impact over recent years. These have had various causes, including unintentional interference, satellite failure, signal denial or degradation. In this context, Galileo will significantly contribute to reducing these shortcomings by providing additional independent navigation signals broadcast in different frequency bands.

Recognising the strategic importance of satellite navigation, its potential applications and current GNSS system shortcomings, Europe has decided to develop its own GNSS capability in a two-step approach:

- EGNOS is the first European step in GNSS and was declared operational by the European Commission in 2009. EGNOS complements GPS and GLONASS by providing a civil service which warns of malfunction (integrity) in their constellations. This is essential for safety critical applications and also improves GPS and GLONASS accuracy through the provision of differential corrections.
- The Galileo programme is the second, major, step in the EU strategy. Galileo is Europe's initiative for a state-of-the-art global satellite navigation system, providing a highly accurate, guaranteed global positioning service under civilian control.

Galileo is a civil system operated under public control. Its missions include:

- Implementing an independent Global Navigation Satellite System (GNSS) which will fit in with (and operate alongside) existing and planned navigation and communication systems to provide both enhancements and redundancy;
- Improving the European infrastructure, particularly for multi-modal transport, whilst providing a global high-quality civil Position-Velocity-Time (PVT) capability;

Galileo will realise the European objective of autonomy in such a strategic and crucial technology as GNSS. Within European Member States, both the effective implementation of government policy and regulations and widespread reliance on satellite navigation services cannot be ensured if users are completely dependant on a system outside of any European

control.

Galileo will foster European investment in this area and promote European industries in innovative markets. It will also offer, alongside an Open Service similar to GPS SPS, new features to improve and guarantee PVT services, supporting the standards required for critical safety of life and commercial applications.

Whilst providing autonomous navigation and positioning services, Galileo will at the same time be fully compatible and interoperable with GPS and GLONASS at the user receiver level, with no common mode of failure with these two other global satellite navigation systems.

The Galileo mission requirements can be largely described in terms of the services that Galileo will deliver or support. These services are planned to include:

- Open Service (OS) – providing positioning, velocity and timing services, free of charge, for mass market applications and competitive with the GPS Standard Positioning Service (SPS) and its evolutions;
- Public Regulated Service (PRS) – providing robust and encrypted signals, under Member States control and restricted to government-authorised users, for sensitive applications which require a high level of service continuity;
- Search and Rescue Support Service (SAR) – supporting the COSPAS-SARSAT system by locating activated Emergency Beacons and forwarding Return Link Messages to these beacons;
- Safety of Life Service (SoL) – compliant with standards for aeronautical, maritime and rail;
- Commercial Service (CS) – providing added value over the Open Service, by dissemination of encrypted navigation related data, ranging and timing for professional use - with service guarantees.

4.3. Program Organisation & Distribution Among WPs

The European Union has decided to implement the Galileo Full Operational Capacity (FOC) as an entirely public funded procurement and asked the European Space Agency (ESA) to act as a procurement agent for its implementation: see European Council for Transport, Telecommunication and Energy (TTE) Council Conclusions dated 29/30 November 2007.

In order to meet the procurement principles specified in the TTE Council Conclusions the Agency together with the EC has defined a two step approach for the procurement of the six main Work Packages (WP) of the Galileo FOC, i.e.:

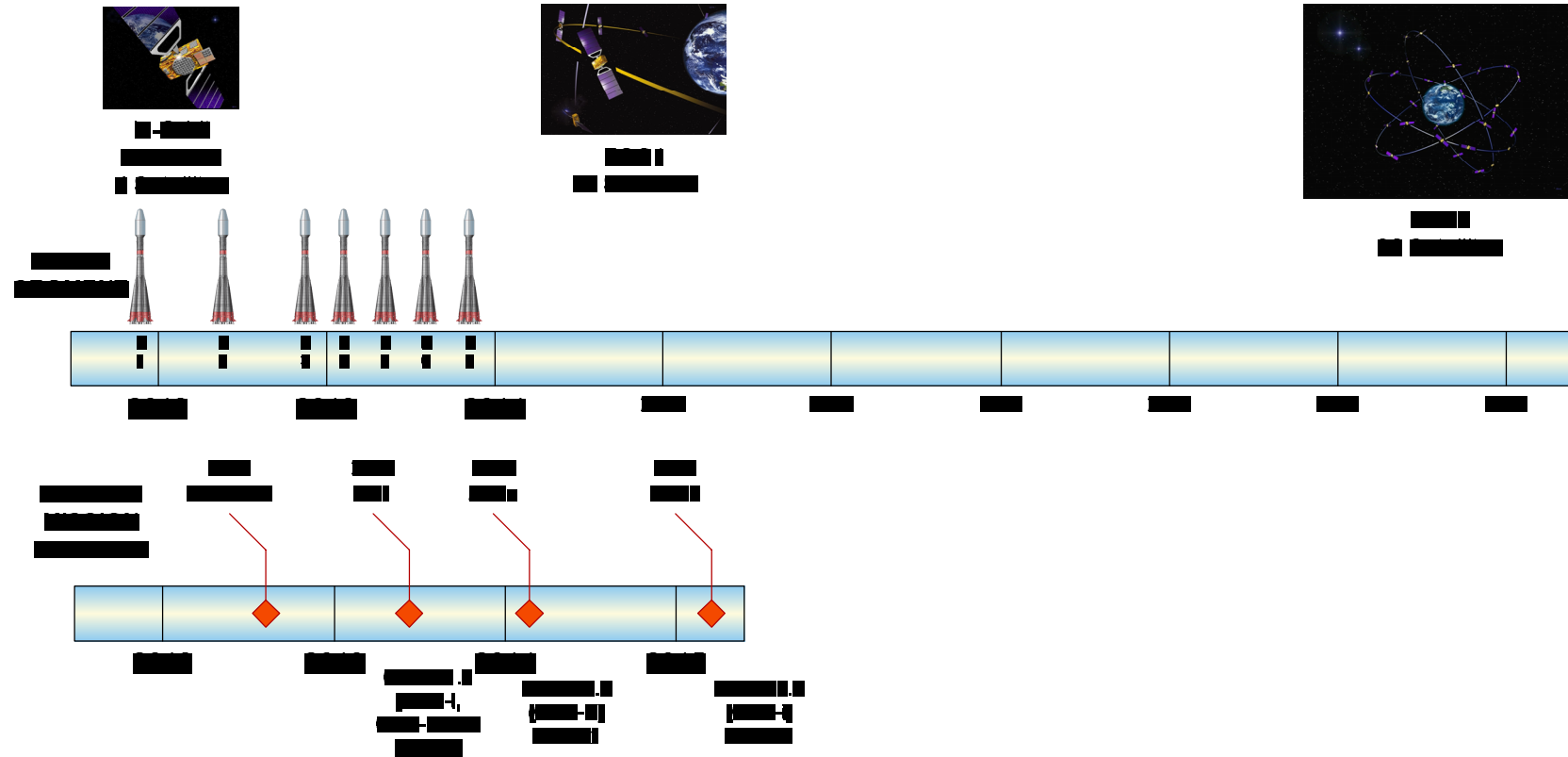
- WP1: System Engineering Support
- WP2: Ground Mission Infrastructure
- WP3: Ground Control Infrastructure
- WP4: Space Segment
- WP4: Launchers
- WP6: Operations.

4.4. Program Timeline

Based on the award of contracts for the first batch of satellites, launch services, system support services and operations, Initial Operation Capability (IOC) will be provided in 2014 constituting the initial Open, PRS and SAR Services.

The Safety-of-Life and the Commercial Services will be tested as of 2014 and will be provided as the system reaches Full Operational Capability (FOC) with the nominal 30 satellite constellation.

The following picture provides the timeline of the Space segment deployment and the main milestones related to the deployment of the Ground Mission segment.



4.5. Description of the Tasks Required in the Present Contract

GENERAL DESCRIPTION OF THE TASKS

The activity consists in providing engineering, management and legal/procurement support to the GSA in order to prepare and then implement its role of EGNOS and Galileo exploitation¹ manager.

Those tasks address the preparation of the exploitation activities, the implementation of the programme management hand-over from the current programme management (EC and/or GSA) to the GSA, and the execution of the exploitation activities under responsibility of the GSA.

Those tasks will be performed under the direct supervision of the GSA EGNOS and Galileo programme managers, and shall be performed to a very large extent co-located with the GSA exploitation programme teams.

Those tasks consist mainly of:

- § Producing analysis reports and programme documentation according to the GSA programme management needs,
- § Preparing and participating to reviews or meetings organised by GSA or other programme stakeholders (e.g. EC, ESA, EGNOS operator) in order to represent the GSA and defend its interests,
- § Developing, implementing and/or configuring basic programme management tools (e.g. schedule and costs data bases, documentation and configuration management, risk register),
- § Contributing to the "on-site" GSA programme management team activities, reporting to management and decision-making.

The activities have been split into three main tasks:

- Ø Task 1: Support to Galileo exploitation
- Ø Task 2: Support to EGNOS exploitation
- Ø Task 3: Programme management processes and tools

TASK 1: SUPPORT TO GALILEO EXPLOITATION

The Galileo programme is currently in its deployment phase and is being managed by the European Commission, which delegates the design, development, deployment and operations activities to the European Space Agency. The GSA is however already in charge of the Galileo Security Monitoring Centres operations.

Progressively, the European Commission will delegate to the GSA the responsibility of the Galileo exploitation management. The purpose of this task is therefore to support the GSA in its duty to prepare (and already partially) fulfil this new role over the period 2012-2016, through the implementation of adequate programme management processes, resources and contracts in order to ensure the provision of initial Galileo services.

¹ In the context of this document, "Exploitation" means the operation of the program as well as service provision.

It is broken down in the two following sub-tasks:

- Task 1.1 (Galileo exploitation strategy): support the GSA management in the definition of the overall Galileo exploitation programme strategy, in particular:
 - o Technical support to analyse, assess and implement the Galileo programme transition from the deployment phase to the exploitation phase and, further on, the management of the exploitation phase (i.e. operations and service provision)
 - o Supporting the evaluation of the best organisational setup in terms of “make or buy” options for the public sector,
 - o Supporting the implementation of the identified solutions, defining specific tendering phases whenever appropriate,
 - o Supporting the definition of the Galileo operational concepts,
 - o Supporting the definition of the Galileo initial service provision concept and subsequent specifications through service level agreements,
 - o Contributing to the definition of the Galileo Service implementation plans,
 - o Supporting the definition, specification and verification of the hand-over of operation and service provision activities.
- Task 1.2 (Galileo exploitation procurement support): support to the preparation, evaluation and negotiation of the Galileo operations and/or service provision contracts and/or delegation agreement. Support to the monitoring and control of the execution of the Galileo operations sub-contracted and delegated activities. This includes, but is not limited to:
 - o Supporting the definition of initial operation and service provision contract specifications, including ad hoc key performance indicators (KPIs) and management requirements,
 - o Supporting the evaluation of tenderer's offers, including identification of negotiation items and contributing to the evaluation analyses and reports,
 - o Reviewing the reporting provided by GSA sub-contractors or delegated entities, participation to the progress meeting and technical reviews.

TASK 2: SUPPORT TO EGNOS EXPLOITATION

The EGNOS service provision is currently managed by the European Commission, which sub-contracts operational activities to the current EGNOS operator and to satellite operators, and delegates system upgrades management to the European Space Agency.

In 2014, the European Union will delegate to the GSA the responsibility for EGNOS exploitation management. The purpose of this task is therefore to support the GSA in its duty to prepare and fulfil this new role over the period 2012-2016, through the implementation of adequate programme management processes, resources and contracts in order to ensure a seamless EGNOS services provision.

The GSA, in its role of EGNOS programme manager, will specify, negotiate, conclude and manage the execution of different contracts related to the EGNOS service provision (the main EGNOS Service Provision contract, geostationary transponder lease contracts and potentially other contracts in support to the EGNOS services provision). In addition, the GSA will have to ensure the overall consistency of the EGNOS exploitation activities, which encompass the above contracts, but also the activities of EGNOS system evolutions

delegated to ESA and potential additional EGNOS-related activities requested by the European Commission.

The support required by the present tender therefore consists in providing management, engineering and legal/procurement support to the GSA in its role of EGNOS Exploitation Programme Manager.

It is broken down in the two following sub-tasks:

- Task 2.1 (EGNOS exploitation strategy): support the GSA management in the definition of the overall EGNOS exploitation programme strategy, in particular:
 - o Technical support to analyse, assess and implement the EGNOS programme transition from the current to the new exploitation governance scheme,
 - o Supporting the evaluation of the best organisational setup in terms of “make or buy” options for the public sector,
 - o Supporting the implementation of the identified solutions, defining specific tendering phases whenever appropriate,
 - o Supporting the definition of the operational concepts and subsequent specifications.
 - o Supporting the definition of the service provision concept and subsequent specifications through service level agreements.
 - o Supporting the definition of a service provision roadmap
 - o Supporting the definition, specification and verification of the hand-over of operation and service provision activities.
- Task 2.2 (EGNOS exploitation procurement support): support to the preparation, evaluation and negotiation of the EGNOS operations and/or service provision contracts and delegation agreement. Support to the monitoring and control of the execution of the EGNOS sub-contracted and delegated activities. This includes, but is not limited to:
 - o Supporting the definition of contract specifications, including ad hoc key performance indicators (KPIs) and management requirements,
 - o Supporting the evaluation of tenderer's offers, including identification of negotiation items and contributing to the evaluation analyses and reports,
 - o Reviewing the reporting provided by GSA sub-contractors or delegated entities, participation to the progress meeting and technical reviews.

TASK 3: PROGRAMME MANAGEMENT PROCESSES AND TOOLS

This task consists in providing support to the establishment of the GSA exploitation management processes and tools, and to the handling of EGNOS and Galileo programme data and assets, and to support the programme managers in its role of programme control (cost and time control, risk analysis, reporting). This includes, but is not limited to:

- o Establishment, configuration, maintenance and delivery of the EGNOS and Galileo exploitation programme schedule (Microsoft project data base or equivalent),
- o Establishment, configuration, maintenance and delivery of an EGNOS and Galileo exploitation cost model data base,

- o Establishment, configuration, maintenance and delivery of the EGNOS and Galileo exploitation programme risks registers (Microsoft excel data base or equivalent)
- o Definition, configuration, maintenance and delivery of the EGNOS and Galileo exploitation programme metrics (schedule, costs, risks, configuration changes, actions, documentation)

5. Annexes

ANNEXES

5.1. Exclusion Criteria Form (Invitation to Tender No GSA/OP/04/2011)

Exclusion Criteria Form

The undersigned [name of the signatory of this form, to be completed]:

- in his/her own name (if the economic operator is a natural person or in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator²)

Or

- representing (if the economic operator is a legal person)

official name in full (only for legal person):

official legal form (only for legal person):

official address in full:

VAT registration number:

declares that the company or organisation that he/she represents / he/she:

- a) is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) has not been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata;
- c) has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- d) has fulfilled all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be carried out;
- e) has not 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) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his/her obligation under contract covered by the budget.

² To be used depending on the national legislation of the country in which the candidate or tenderer is established and where considered necessary by the contracting authority (see art. 134(4) of the Implementing Rules).

In addition, the undersigned declares on their honour:

g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;

The tenderer shall not have any contractual activities related to the EC/ESSP service provision contract, the EC/SES-Astra geostationary transponder contracts, and the ESA/TAS-F EGNOS system update contracts.

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

i) they have not made and will not make any tender of any type whatsoever from which an advantage can be derived under the contract;

j) they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract.

k) that the information provided to the Agency within the context of this invitation to tender is accurate, sincere and complete.

l) that in case of award of contract, they shall provide the evidence that they are not in any of the situations described in points a, b, d, e above³.

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

For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the Tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

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

By signing this form, the undersigned acknowledges that they have been acquainted with the administrative and financial penalties described under art 133 and 134 b of the Implementing Rules (Commission Regulation 2342/2002 of 23/12/02), which may be applied if any of the declarations or information provided prove to be false.

Full name

Date

Signature

³ Mandatory for contracts of value above €133 000 only (see art. 134(2) of the Implementing Rules). The contracting authority can nevertheless request such evidence for contracts with a lower value.

5.2. Draft Framework Service Contract

FRAMEWORK SERVICE CONTRACT NUMBER – GSA/OP/04/2011

The European GNSS Agency⁴ (hereinafter referred to as "the GSA"), represented for the purposes of the signature of this contract by Mr Carlo des Dorides, Executive Director of the GSA

of the one part,

and

[official name in full]

[official legal form]⁵

[statutory registration number]⁶

[official address in full]

[VAT registration number]

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

[The parties identified above and hereinafter collectively referred to as 'the Contractor' shall be jointly and severally liable vis-à-vis the Commission for the performance of this contract and any specific contracts awarded hereunder.]

of the other part,

⁴ Regulation (EU) No 912/2010 set up the European GNSS Agency (the Agency). The Regulation entered into force on 9 November 2010, repealing Regulation (EC) No 1321/2004, which set up the European GNSS Supervisory Authority (the Authority). The Authority is thereby now called the Agency. With Regulation (EU) No 912/2010 the Authority continues its activities in the form of the Agency, including continuity as regards rights and obligations, staff and the validity of any decisions taken. References to the repealed Regulation (EC) No 1321/2004 are to be construed as references to Regulation (EU) No 912/2010 and any measure adopted by the Authority on the basis of Regulation (EC) No 1321/2004 remain valid. Throughout Regulation (EC) No 683/2008, the words 'European GNSS Supervisory Authority' and 'Authority' are replaced by 'European GNSS Agency' and 'Agency' respectively.

⁵ Delete if contractor is a natural person or a body governed by public law.

⁶ Delete if contractor is a body governed by public law. For natural persons, indicate the number of their identity card or, failing that, of their passport or equivalent.

HAVE AGREED

the Special Conditions and the following Annexes:

Annex I (a) General Conditions

(b) Model Specific Contract

Annex II – Tender Specifications (Invitation to Tender No GSA/OP/04/11 of [insert date])

Annex III – Contractor's Tender (No [complete] of [insert date])

Annex IV – Mission Rules of the GSA Staff as to Reimbursement of Travel Expenses

Annex V – Non-Disclosure Agreement

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 model specific contract (Annex I (b))
- The terms set out in the model specific contract (Annex I (b)) 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 Contract shall take precedence over those in the specific contracts.
- The terms set out in the specific contracts shall take precedence over those in the Requests for Services.
- The terms set out in the Requests for Services shall take precedence over those in the specific tenders.

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 GSA, 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 performance of the activities as described hereunder and in greater detail under section 4.5 of the Tender Specifications (Annex II). The activities shall be performed under specific contracts, which may describe the activities in greater detail.

The activities have been split into three main tasks:

- Ø Task 1: Support to Galileo exploitation
- Ø Task 2: Support to EGNOS exploitation
- Ø Task 3: Programme management processes and tools

Those tasks consist mainly of:

- Producing analysis reports and programme documentation according to the GSA programme management needs,
- Preparing and participating to reviews or meetings organised by GSA or other programme stakeholders (e.g. EC, ESA, EGNOS operator) in order to represent the GSA and defend its interests,
- Developing, implementing and/or configuring basic programme management tools (e.g. schedule and costs data bases, documentation and configuration management, risk register),
- Contributing to the "on-site" GSA programme management team activities, reporting to management and decision-making.

I.1.2 Signature of the Contract imposes no obligation on the GSA to purchase. Only implementation of the Contract through specific contracts is binding on the GSA.

I.1.3 Once implementation of the Contract has commenced, the Contractor shall provide the services in accordance with all terms and conditions of the Contract.

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 Under no circumstances may implementation commence before the date on which the Contract enters into force. Execution of the tasks may under no circumstances begin before the date on which the specific contract enters into force.
- I.2.3 The Contract is concluded for a period of 48 months with effect from the date on which it enters into force. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated.
- I.2.4 The specific contracts shall be returned signed before the Contract to which they refer expires.
- The Contract shall continue to apply to such specific contracts after its expiry. They shall be executed no later than 6 months.

ARTICLE I.3 – CONTRACT PRICES

- I.3.1 The maximum amount of the Contract shall be EUR 7,000,000 (seven million euros), including all admissible reimbursement of expenses.
- I.3.2 The maximum price indicated in a specific contract covers any fees payable to the Contractor in relation to the vesting of rights in the GSA and where applicable the transfer of rights to the Union and any use of the results by the GSA.
- I.3.3 The maximum price indicated in a specific contract shall be calculated on the basis of the amount of daily and hourly fees in relation to the estimation of the resources as under Article I.4.1, meaning the dedicated advisors to be allocated to the performance of the specific contract and the reimbursable travel costs in accordance with Article I.3.4 and Article I.3.5.

1.3.4 For the purpose of this Contract, the following fees shall apply:

- The hourly fee applicable for work performed at the tenderers office(s) regardless of their duration and for missions outside of the tenderers office(s) with a duration of less than 8 hours of work per calendar day (without travel time) for junior advisors shall be: [INSERT QUTOTATION OF SUCCESSFUL TENDERER];
- The hourly fee applicable for work performed at the tenderers office(s) regardless of their duration and for missions outside of the tenderers office(s) with a duration of less than 8 hours of work per calendar day (without travel time) for senior advisors shall be: [FILL IN QUTOTATION OF SUCCESSFUL TENDERER];
- The daily fee applicable for missions outside of the tenderers office(s) with duration of more than 8 hours of work (without travel time) per calendar day for junior advisors shall be: [FILL IN QUTOTATION OF SUCCESSFUL TENDERER];
- The daily fee applicable for missions outside of the tenderers office(s) with duration of more than 8 hours of work (without travel time) per calendar day for senior advisors shall be: [FILL IN QUTOTATION OF SUCCESSFUL TENDERER];

Time spent travelling without working for the Agency shall not be taken into account for the calculation of the hourly and daily fees and shall not be subject to reimbursement.

1.3.5 Reimbursement of travel expenses shall be limited to the provision of support outside the respective advisor's registered office and outside the site of the GSA in Brussels, Belgium as well as from June 2012, or at any later time, as decided by the GSA's Executive Director, in Prague, the Czech Republic.

In addition to the above restriction, reimbursement of travel expenses shall be limited to missions prior requested and approved by the duly authorised representative of the GSA.

Any reimbursement shall be granted within the limits and applying the mission rules of the GSA staff as to reimbursement of travel expenses forming an integral part of this Contract with Annex IV accordingly.

1.3.6 Under this Contract the total reimbursement of travel costs shall not exceed the maximum amount of EUR 200 000 (two hundred thousand euros) throughout implementation of the Contract at a duration of 48 months nor the maximum amount of EUR 50 000 (fifty thousand euros) per year or, in case of early termination, any proportional part in relation to the actual Contract duration.

The provisions under Article II.18 shall apply accordingly and subject to the limitations and modifications of the provisions under this I.3.

No further expenses shall be reimbursed nor shall further allowances be granted.

I.3.7 All prices and expenses shall be expressed in EUR.

ARTICLE I.4 – PAYMENTS AND IMPLEMENTATION OF THE CONTRACT

I.4.1 Placing of Specific Contracts

Within 20 (twenty) working days of a request for performance of tasks under this Contract being sent by the GSA to the Contractor, the GSA shall receive an estimate of the resources to be allocated for its execution, with particulars in support.

For complex request for services, the time limits for receiving an estimate of resources can be modified.

On the grounds of the information provided the GSA may chose to submit to the Contractor a draft specific contract applying the Model Specific Contract (Annex I (b))

Within ten (10) working days of a specific contract being sent by the GSA to the Contractor, the GSA shall receive it back, duly signed and dated.

The period allowed for the execution of the tasks shall start to run on the date indicated in the specific contract.

I.4.2 Pre-financing

Not applicable.

I.4.3 Payment Periods and Formalities

Payments under the Contract shall be made in accordance with Article II.15 and II.16. Payments shall be executed only if the Contractor has fulfilled all contractual obligations (including those of the Specific Contracts awarded) by the date on which the invoice is submitted. If applicable, interim payment(s) will be determined in the Specific Contract(s).

1.4.4 Monthly Interim Payments:

Requests for a monthly interim payment by the Contractor shall be admissible if accompanied by all the following deliverables:

- A monthly activity report describing the work accomplished by each dedicated advisor as well as the number of days/hours performed during that month by each dedicated advisor under each task described in the actual Specific Contract(s).
- Submission of all deliverable(s) referred to in the Specific Contract(s) to be submitted until the end of the period of the respective invoicing.
- Statements of reimbursable expenses in accordance with Article 1.2.3 and Article II.18
- The relevant invoice, indicating the reference number of the Contract and of any Specific Contract to which they refer.

The GSA shall have 30 (thirty) calendar days from receipt to approve or reject the activity report and the deliverable(s), if any, and the Contractor shall have 20 (twenty) calendar days in which to correct the report and/or the deliverables.

Within 30 (thirty) calendar days of the date on which the activity report and the deliverable(s) are approved by the GSA, an interim payment corresponding to the relevant invoice shall be made.

Any effort and expenses for preparing the invoices and any activity report submitted therewith shall not be covered by the agreed advisor fees and shall not be reimbursed as expenses.

For the purpose of invoices for monthly interim payments the term "progress report" under Article II.15.2 shall have the meaning of the term "activity report" in the Specific Conditions.

1.4.5 Payment of the balance

The request for payment of the balance of the Contractor shall be admissible if accompanied by:

- A final activity report describing the work accomplished by each dedicated advisor as well as the number of days/hours performed during that month by each dedicated advisor under each task described in the actual specific contract(s).
- Submission of all deliverable(s) referred to in the Specific Contract(s) to be submitted until the end of the period of the request for the balance.
- Statements of reimbursable expenses in accordance with Article 1.2.3 and Article II.18
- The relevant invoice, indicating the reference number of the Contract and of any specific contract performed there under.

The GSA shall have 30 (thirty) calendar days from receipt to approve or reject the final activity report and the deliverable(s), if any, and the Contractor shall have 20 (twenty) calendar days in which to correct the report and/or the deliverables.

Within 30 (thirty) calendar days of the date on which the final activity report and the deliverable(s) are approved by the GSA, the payment of the balance corresponding to the relevant invoice shall be made.

Any effort and expenses for preparing the invoice for the payment of the balance and the final activity report submitted therewith shall not be covered by the agreed advisor fees and shall not be reimbursed as expenses.

For the purpose of the invoice for the payment of the balance the term "progress report" under Section II.15.2 of the General Conditions shall have the meaning of the term "final activity report" under the Specific Conditions.

ARTICLE I.5 – BANK ACCOUNT

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

Name of bank:

Address of branch in full:

Exact designation of account holder:

Full account number including codes:

[IBAN⁷ code:]

ARTICLE I.6 – GENERAL ADMINISTRATIVE PROVISIONS

Any communication relating to the Contract or to its implementation shall be made in writing in paper or electronic format and shall bear the Contract and specific contract numbers. Ordinary mail shall be deemed to have been received by the GSA on the date on which it is registered by the department responsible indicated below.

Electronic communication must be confirmed by paper communication when requested by any of the parties. The parties agree that paper communication can be replaced by electronic communication with electronic signature.

Communications shall be sent to the following addresses:

GSA:

European GNSS Agency
Contracts Department
56, rue de la loi
B-1049 Brussels, Belgium

Contractor:

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

⁷ BIC or SWIFT code for countries with no IBAN code.

ARTICLE I.7 – APPLICABLE LAW AND SETTLEMENT OF DISPUTES

I.7.1 The Contract shall be governed by Union law, complemented, where necessary, by the national substantive law of Brussels, Belgium.

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 Brussels, Belgium.

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. Such data shall be processed solely for the purposes of the performance, management and monitoring of the Contract by the GSA acting as data controller without prejudice to possible transmission to the bodies charged with monitoring or inspection task in application of Union law.

ARTICLE I.9 - USE OF THE RESULTS

I.9.1 Modes of exploitation

All studies/analysis/elaborations/thesis/materials/reports/computations, documented data, database format and data produced within this Contract and for which the rights vest in the GSA and thereby the GSA has acquired the ownership in accordance with Article II.10 may be used in the following way:

i) distribution:

- publishing in paper copies
- publishing in electronic form as downloadable/non-downloadable file
- making available on internet
- broadcasting
- public presentation or display
- communication through a press information services,
- inclusion in widely accessible databases or indexes
- in any form and by any method existing at this date and in the future
- giving access on individual requests without right to reproduce or exploit, as provided for by Regulation 1049/2001 regarding public

access to European Parliament, Council and Commission documents

ii) storage:

- in paper format
- in electronic format

iii) archiving in line with the applicable document management rules

iv) modifications made by the GSA or by a third party:

- shortening
- making a summary
- modification of the content
- technical changes to the content:
 - necessary correction of errors
 - providing third parties with additional information concerning the result (e.g. source code)
- addition of new elements, paragraphs titles, leads, bolds, legend, table of content, summary, graphics, subtitles, sound, etc.,
- preparation in slide-show, public presentation etc.
- extracting a part or dividing into parts
- use of a concept or preparation of a derivative work
- digitisation or converting the format for storage or usage purposes
- translate, subtitle, dub

v) language versions:

- working languages of EC
- official languages of EU
- languages used within EU
- languages of candidate countries

vi) use for own purposes:

- making available to the staff of the GSA.
- making available to the persons and entities working for the GSA or cooperating with it, including: contractors, subcontractors whether legal or natural persons, EU-institutions, agencies and bodies, Member States institutions
- installing, uploading, processing
- arranging, compiling, combining, retrieving
- making a copy, reproducing

vii) allow use of results by third parties:

- for commercial or non commercial purposes,
- against payment, without payment or against fulfilment of other conditions
- assignment in full or in part
- giving a licence
- for a particular period or unlimited in time]

This list may be further specified in any specific contract.

Where the GSA becomes aware that scope of modifications exceeds the scope envisaged in the Contract the creator shall be consulted. The creator will be obliged to provide his/her response within 2 (two) weeks. He/she shall provide his/her agreement including any suggestions of modifications free of charge. The creator may refuse the intended modification only when it may harm his/her honour, reputation or distort integrity of the work.

I.9.2 Pre-existing rights, intermediaries, creators' rights

Not applicable.

I.9.3 Partial vesting of rights (pre-existing or not pre-existing)

Not applicable.

ARTICLE I.10 – TERMINATION BY EITHER CONTRACTING PARTY

Either contracting party may, of its own volition and without being required to pay compensation, terminate the Contract by serving 1 (one) month formal prior notice. Should the Commission terminate the Contract, the Contractor shall only be entitled to payment corresponding to the part-performance of the services ordered before the termination date. Article II.14.4 applies accordingly.

ARTICLE I.11– CONTRACT CONCLUDED DURING STANDSTILL PERIOD

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

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

ARTICLE I.12 – WEEKLY REPORTING

Notwithstanding the Contractors obligations to submit activity reports in conjunction with the request of any monthly interim payment in accordance with Article I.4.4 the Contractor shall further submit a weekly activities report.

The weekly activities report shall display the activities performed by each dedicated advisor in explicit relation to the project related task performed in the current calendar week.

Any effort and expenses for preparing the weekly activity reports shall not be covered by the agreed advisor fees and shall not be reimbursable as expenses.

ARTICLE I.13 – CONFLICT OF INTERESTS

I.13.1 – Conflict of Interests at Contract Award

Without prejudice to Article II.3 the Contractor, with the signing of the Contract, irrevocably and explicitly declares the absence of any conflict of interest in the meaning of Article II.3 existing at the signing of the Contract. This declaration shall extend to and cover any members of the Contractor's group/consortium and any of the subcontractors and dedicated advisors part of his/her tender.

In case the GSA becomes aware of a conflict of interest in the meaning of Article II.3 having existed at the signing of the Contract it may terminate the Contract and any specific contract it may have submitted there under with immediate effect following prior written notice to the Contractor and after having given the Contractor the opportunity to submit his/her observations within a reasonable time period. With the request to the Contractor to submit his/her observations all work under the Contract, including any specific contract submitted there under shall be suspended, with the provisions of Article II.13 applying accordingly.

I.13.2 – Application to Subcontractors and Dedicated Advisors

The Contractor, with the signing of the Contract, further irrevocably and explicitly declares and acknowledges that the provisions under Article II.3 shall apply wholly and unconditionally to any members of the Contractor's group/consortium and any of the subcontractors and dedicated advisors part of his/her tender or who may at any later time during the term of the Contract act as subcontractor or dedicated advisors under the Contract.

I.13.3 – Participation in Public Procurements

In case the Contractor plans to participate in any of the procurements he/she was involved preparing or advising under this Contract, he/she shall inform the GSA's procurement officer of this plan, immediately.

The GSA shall evaluate the consequences of the Contractor's participation in view of the possibilities of upholding the procurement principles of equal treatment and non-discrimination, also through implementation of effective measures, e.g. extending the period for submission of tenders, dissemination of and/or providing access to information gained exclusively by the Contractor in his/her work under the Contract. The Contractor is asked to support the GSA in its efforts to provide a level playing field for other potential tenderers.

Following the outcome of its evaluation, the GSA shall finally decide with binding effect, whether the Contractor will be allowed to participate in the

procurement process in question. The GSA shall inform the Contractor of its decision without delay.

I.13.4 – Extent of Obligations

The Contractor shall be held responsible and take any appropriate measures ensuring that the provisions under this Article I.13 and under Article II.3 are extended to and followed by any members of the Contractor's group/consortium and any of the subcontractors and dedicated advisors under the Contract.

Article II.14a remains unaffected.

ARTICLE I.14 – DEDICATED ADVISORS

I.14.1 List of Dedicated Advisors

For the performance of the tasks under this Contract and any specific contracts there under the following persons shall act as dedicated advisors, applying the fees as indicated under Article I.3.4:

(1) Dedicated Senior Advisor

Surname, first name: [fill in according to tender]
Contact Mail (registered office): [fill in according to tender]
Contact Phone: [fill in according to tender]
Contact Email: [fill in according to tender]
Affiliation with Contractor: [fill in according to tender]

(2) Dedicated Senior Advisor

Surname, first name: [fill in according to tender]
Contact Mail (registered office): [fill in according to tender]
Contact Phone: [fill in according to tender]
Contact Email: [fill in according to tender]
Affiliation with Contractor: [fill in according to tender]

(3) Dedicated Senior Advisor

Surname, first name: [fill in according to tender]
Contact Mail (registered office): [fill in according to tender]
Contact Phone: [fill in according to tender]

Contact Email: [fill in according to tender]

Affiliation with Contractor: [fill in according to tender]

(4) Dedicated Senior Advisor

Surname, first name: [fill in according to tender]

Contact Mail (registered office): [fill in according to tender]

Contact Phone: [fill in according to tender]

Contact Email: [fill in according to tender]

Affiliation with Contractor: [fill in according to tender]

(1) Dedicated Junior Advisor

Surname, first name: [fill in according to tender]

Contact Mail (registered office): [fill in according to tender]

Contact Phone: [fill in according to tender]

Contact Email: [fill in according to tender]

Affiliation with Contractor: [fill in according to tender]

(2) Dedicated Junior Advisor

Surname, first name: [fill in according to tender]

Contact Mail (registered office): [fill in according to tender]

Contact Phone: [fill in according to tender]

Contact Email: [fill in according to tender]

Affiliation with Contractor: [fill in according to tender]

The Contractor shall immediately inform the GSA of any change regarding the contact and affiliation details for any of the dedicated advisors.

I.14.2 Exchange of Dedicated Advisors

Notwithstanding Article II.1.7 the Contractor may exchange dedicated advisors only upon prior written approval by the GSA.

Should the Contractor request an exchange of any dedicated advisor he/she shall send to the GSA a request letter by registered mail, specifying the date and the dedicated advisor to be exchanged and the person to replace him/her. The Contractor shall ensure that the GSA receives the letter at least one month before the exchange requested is to take place.



European GNSS Agency



In this letter, the Contractor shall provide information on the person to replace the dedicated advisor having the same capacities in view of the requirements under 3.2.1 of the Selection Criteria of the Tender Specifications (Annex II) regarding technical and professional capacity. Together with this information supporting evidence as required under 3.2.3 of the Selection Criteria shall be submitted by the Contractor in his/her request.

The GSA shall evaluate whether the person proposed for replacing the dedicated advisor fulfils the same capacities in view of the requirements under 3.2.1 of the Selection Criteria on the basis of the evidence provided in the letter and shall communicate its decision of acceptance or rejection to the Contractor. Should the Contractor not receive any reply from the GSA before the date for exchange indicated in his/her letter, the request is deemed to be rejected, unless communicated otherwise by the GSA. The Contractor may request from the GSA information on the grounds for the rejection, conforming with the limitations for rejection described below.

Any person rejected for the replacement shall not perform any tasks under this Contract or any specific contract awarded there under.

The GSA shall not reject persons proposed for replacement of dedicated advisors for other reasons than failure to fulfil the criteria required under 3.2.1 of the Selection Criteria of the tender specification, a conflict of interest as defined under Article II.3, or for posing a security risk for the GSA or the Union. Any request for replacement received by the GSA with less than one month to the proposed date of replacement, may be rejected on that basis alone.

I.15 NON-DISCLOSURE AGREEMENT

Signature of the non-disclosure agreement (NDA - Annex V) by the Contractor, including any of the members of his/her group/consortium and subcontractors of this Contract is a mandatory precondition for the validity of this Contract and for placing any specific contract hereunder.

The Contractor shall ensure and be responsible towards the GSA that the provisions of the NDA are followed by any legal entity as well as natural person involved in or performing tasks under this Contract, regardless of fault.

The Contractor may not exonerate him-/herself from any failure of this duty in view of the non-performance of the NDA's provisions by any third-party.

SIGNATURES

For the Contractor,

[Company
name/forename/surname/function]

For the GSA,

Carlo des Dorides, Executive
Director

signature[s]:

signature[s]: _____

Done at [Brussels], [date]

Done at [Brussels], [date]

In duplicate in English.

ANNEX I (a)

II – GENERAL CONDITIONS FOR SERVICE FRAMEWORK CONTRACTS

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/her, 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/her 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 has the professional qualifications and experience required for the execution of the tasks assigned to him/her.
- II.1.5 The Contractor shall neither represent the GSA 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/her.

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

- staff executing the tasks assigned to the Contractor may not be given orders direct by the GSA;
 - the GSA 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 GSA any right arising from the contractual relationship between the GSA 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 GSA's 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/her

without delay. The GSA 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/her resulting from the replacement of staff.

- 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 at his/her own initiative record it and report it to the GSA. 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/her 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/her obligations under the Contract, the GSA 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 GSA may claim compensation or impose liquidated damages provided for in Article II.12.

ARTICLE II. 2 – LIABILITY

- II.2.1 The GSA 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 GSA.
- II.2.2 The Contractor shall be liable for any loss or damage sustained by the GSA in performance of the Contract, including in the event of subcontracting under Article II.6 but only up to three times the total amount of the Contract. Nevertheless, if the damage or loss is caused by the gross negligence or wilful misconduct of the Contractor or by its employees, the Contractor shall remain liable without any limitation as to the amount of the damage or loss.
- II.2.3 The Contractor shall provide compensation in the event of any action, claim or proceeding brought against the GSA 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 GSA in connection with performance of the Contract, the Contractor shall assist the GSA. Expenditure incurred by the Contractor to this end may be borne by the GSA.

- 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 GSA 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 GSA in writing without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

The GSA 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/her 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 GSA, any member of his/her staff exposed to such a situation.

- II.3.2 The Contractor shall abstain from any contact likely to compromise his/her 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 unjustified 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/her staff, board, and directors as well as to third parties involved in performance of the Contract.



ARTICLE II. 4 – CONFIDENTIALITY

- II.4.1. 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.4.2. The Contractor shall obtain from each member of his/her 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.5 - DATA PROTECTION

- II.5.1 The Contractor shall have the right of access to his/her personal data and the right to rectify any such data. Should the Contractor have any queries concerning the processing of his/her personal data, s/he shall address them to the entity acting as data controller provided for in Article I.8.
- II.5.2 The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.
- II.5.3 Where the Contract requires the processing of personal data by the Contractor, the Contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data, and the means by which the data subject may exercise his/her rights.
- II.5.4 The Contractor shall limit access to the data to the staff strictly necessary for the performance, management and monitoring of the Contract.
- II.5.5 The Contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:
- a) prevent any unauthorised person from having access to computer systems processing personal data, and especially:
 - aa) unauthorised reading, copying, alteration or removal of storage media;



European GNSS Agency



- ab) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;
- ac) 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 institution or body;
- e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- f) design its organisational structure in such a way that it meets data protection requirements.

ARTICLE II. 6 – SUBCONTRACTING

- II.6.1 The Contractor shall not subcontract without prior written authorisation from the GSA nor cause the Contract to be performed in fact by third parties.
- II.6.2 Even where the GSA authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his/her obligations to the GSA under the Contract and shall bear exclusive liability for proper performance of the Contract.
- II.6.3 The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the GSA is entitled by virtue of the Contract, notably Article II.20.

ARTICLE II. 7 – AMENDMENTS

Any amendment to the Contract shall be the subject of a written agreement concluded by the contracting parties before fulfilment of all their contractual obligations. An oral agreement shall not be binding on the contracting parties. A specific contract may not be deemed to constitute an amendment to the Contract.

ARTICLE II. 8 – ASSIGNMENT

- II.8.1 The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the GSA.
- II.8.2 In the absence of such authorisation, 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 GSA.

ARTICLE II.9 - USE, DISTRIBUTION AND PUBLICATION OF INFORMATION ABOUT THE CONTRACT

- II.9.1 The Contractor shall authorise the GSA to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in the Contract, in particular the identity of the Contractor, the subject matter, the duration and the amount paid. Where personal data is concerned, Article I.8 and II.5 shall apply.
- II.9.2 Unless otherwise provided by the Special Conditions, the GSA shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to distribute or publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the GSA.
- II.9.3 Any distribution or publication of information relating to the Contract or use of outcome of the implementation of the Contract and provided as such by the Contractor shall require prior written authorisation from the GSA and, if so requested, shall mention that it was produced within a contract with the GSA. It shall state that the opinions expressed are those of the Contractor only and do not represent the GSA's official position.
- II.9.4 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 GSA has specifically given prior written authorisation to the contrary.



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

II.10.1 A result shall be any outcome of the implementation of the Contract and provided as such by the Contractor.

A creator shall be any person who contributed to production of the result.

Pre-existing intellectual property rights, sometimes referred to as background technology, are any industrial and intellectual property rights which exist prior to the contract being entered into and include rights of ownership and use of the Contractor, the GSA and any third parties ("pre-existing rights").

It shall be a material term of the Contract and of the essence of the Contract that Contractors shall be under a duty to provide a list of pre-existing rights at the date of delivery of the final result the latest.

II.10.2 The ownership of all the results or rights thereon as listed in the tender specification and the tender attached to the contract, including copyright and other intellectual or industrial property rights, and all technological solutions and information embodied therein, obtained in performance of the Contract, shall be irrevocably and fully vested to the GSA, which may use them as described in the Contract. All the rights shall be vested on the GSA from the moment the results were delivered and accepted by the GSA.

For the avoidance of doubt and where applicable, any such vesting of rights is also deemed to constitute an effective transfer of the rights from the Contractor to the GSA.

The payment of the fee under Article I.3 is deemed to include all forms of use by the GSA of the results as set out in Article I.9.

The above vesting of rights in the GSA under this Contract covers all territories worldwide and is valid for the whole duration of intellectual property rights protection.

II.10.3 Any intermediary sub-result, raw data, intermediary analysis made available to the GSA by the Contractor cannot be used by the GSA without written consent of the Contractor, unless the tender specification explicitly provides for it to be treated as self-contained result.

II.10.4 The Contractor retains all right, title and interest in pre-existing rights not fully vested into the GSA in line with Article I.9.2, and hereby grants the GSA for the requested period a licence to use the pre-existing rights to the extent necessary to use the delivered results.



- II.10.5 The Contractor shall ensure that delivered results are free of rights or claims from third parties including in relation to pre-existing rights, for any use envisaged by the GSA. This does not concern the moral rights of natural persons and rights referred to in Article II.10.4.
- II.10.6 The Contractor shall clearly point out all quotations of existing textual works made by the Contractor. The complete reference should include as appropriate: name of the author, title of the work, date of publishing, date of creation, place of publication, address of publication on internet, number, volume and other information allowing to identify the origin easily.
- II.10.7 The Contractor shall clearly indicate all parts to which there are pre-existing rights and all parts of the result originating from external sources: parts of other documents, images, graphs, tables, data, software, technical inventions, know-how etc. (delivered in paper, electronic or other form).
- For non-textual results or results provided in electronic form only, the description, instruction or information document shall list all parts coming from external sources: IT development tools, routines, subroutines and/or other programs ("background technology"), concepts, designs, installations or pieces of art, data, source or background materials or any other parts of external origin.
- II.10.8 If the GSA so requires, the Contractor shall provide proof of ownership or rights to use all necessary rights to the materials referred to in Article II.10.7.
- II.10.9. By delivering the results the Contractor confirms that the creators undertake not to oppose their names being recalled when the results are presented to the public and confirms that the results can be divulged.
- The Contractor shall possess all relevant agreements of the creator and provide proof by way of documentary evidence.
- II.10.10. By delivering the results the Contractor warrants that the above transfer of rights does not violate any law or infringe any rights of others and that he possesses the relevant rights or powers to execute the transfer. He also warrants that he has paid or has verified payment of all fees including fees to collecting societies, related to the final results.
- II.10.11. The Contractor shall indemnify and hold the GSA harmless for all damages and cost incurred due to any claim brought by any third party including creators and intermediaries for any alleged breach of any intellectual, industrial or other property right based on the GSA's use of the works and in relation to which the Contractor has granted the GSA user rights.

ARTICLE II. 11 – FORCE MAJEURE

- II.11.1 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.11.2 Without prejudice to 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.11.3 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/her contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.11.4 The contracting parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II. 12 – LIQUIDATED DAMAGES

Should the Contractor fail to perform his/her 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 GSA's right to terminate the Contract, the GSA may decide to impose liquidated damages per calendar day of delay according to the following formula:

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

V is the price of the relevant purchase;

d is the duration specified in the relevant specific contract expressed in days

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/her part or of written withdrawal by the GSA 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 GSA 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. 13 – SUSPENSION OF THE CONTRACT

Without prejudice to the GSA's right to terminate the Contract, where the Contract is subject to substantial error, irregularity or fraud the GSA may suspend execution of the Contract, pending specific contracts 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 GSA shall as soon as possible give notice to the Contractor to resume the service suspended or inform that it is proceeding with contract termination. The Contractor shall not be entitled to claim compensation on account of suspension of the Contract, of the specific contracts, or of part thereof.

ARTICLE II. 14 – TERMINATION BY THE GSA

II.14.1 The GSA may terminate the Contract, a pending specific contract in the following circumstances:

- (a) where the Contractor is being wound up, is having his/her 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 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;
- (c) where the GSA has evidence or seriously suspects the Contractor or any related entity or person, of professional misconduct;
- (d) where the GSA has evidence or seriously suspects the Contractor or any related entity or person, of fraud, corruption, involvement in a criminal

organisation or any other illegal activity detrimental to the GSA's financial interests;

- (e) where the GSA has evidence or seriously suspects the Contractor or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the Contract;
- (f) where the Contractor is in breach of his/her obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by the GSA 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 GSA's opinion, have a significant effect on the performance of the Contract;
- (i) where execution of the tasks under a pending specific contract has not actually commenced within fifteen days of the date foreseen, and the new date proposed, if any, is considered unacceptable by the GSA;
- (j) where the Contractor is unable, through his/her 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/her contractual obligations;
- (l) when due to the termination of the contract with one or more of the contractors there is no minimum required competition within the multiple framework contract with reopening of competition.

II.14.2 In case of force majeure, notified in accordance with Article II.11, 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.14.3 Prior to termination under point c), d), e), h) or k), the Contractor shall be given the opportunity to submit his/her 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.14.4 Consequences of termination

In the event of the GSA terminating the Contract or specific 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 service. 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/her 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 GSA may claim compensation for any damage suffered and recover any sums paid to the Contractor under the Contract.

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

ARTICLE II.14a – SUBSTANTIAL ERRORS, IRREGULARITIES AND FRAUD ATTRIBUTABLE TO THE CONTRACTOR

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

ARTICLE II. 15 – INVOICING AND PAYMENTS

II.15.1 Pre-financing guarantee

Where required by Article I.4 or if the pre-financing is over €150 000, 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) 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 GSA at its request an amount corresponding to payments made by it to the Contractor which have not yet been covered by equivalent service rendered on his/her part.

The guarantor shall stand as first-call guarantor and shall not require the GSA 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 guarantee shall be retained until the pre-financing has been cleared against interim payments or payment of the balance to the Contractor. It shall be released the following month or, in the absence of such clearing, four months after the issuance of a corresponding debit note. The cost of providing such guarantee shall be borne by the Contractor.

II.15.2 Interim payments and payment of the balance

Payments shall be executed only if the Contractor has fulfilled all his/her contractual obligations by the date on which the invoice is submitted.

At the end of each of the periods indicated in Annex II the Contractor shall submit to the GSA an invoice accompanied by the documents provided for in the Special Conditions.

If providing a progress report is a condition for payment, on receipt the GSA 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 progress report.

Approval of the progress report shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information it contains.

Where the GSA requests a new progress 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 progress report shall likewise be subject to the above provisions.

II.15.3. Payment currency and costs

Payments are executed in the currency of the contract.

Costs of the transfer are borne in the following way:

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

ARTICLE II. 16 – GENERAL PROVISIONS CONCERNING PAYMENTS

II.16.1 Payments shall be deemed to have been made on the date on which the GSA's account is debited.

II.16.2 The payment periods referred to in Article I.4 may be suspended by the GSA at any time if it informs the Contractor that his/her invoice is not admissible, either because the amount is not due or because the necessary supporting documents have not been properly produced. The GSA may proceed with further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the invoice is admissible.

The GSA shall notify the Contractor accordingly and set out the reasons for the suspension 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.16.3 In the event of late payment the Contractor shall be entitled to interest, provided the calculated interest exceeds EUR 200. In case interest does not exceed EUR 200, the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations ("the reference rate") plus seven percentage points ("the margin"). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment. Suspension of payment by the GSA may not be deemed to constitute late payment.

ARTICLE II. 17 – TAXATION

II.17.1 The Contractor shall have sole responsibility for compliance with the tax laws which apply to him/her. Failure to comply shall make the relevant invoices invalid.

II.17.2 The Contractor recognises that the GSA is, as a rule, exempt from all taxes and duties, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.

- II.17.3 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.17.4 Invoices presented by the Contractor shall indicate his/her place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

ARTICLE II. 18 - REIMBURSEMENTS

- II.18.1 Where provided by the Special Conditions or by Annex II, the GSA shall reimburse the expenses that are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets.
- II.18.2 Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.
- II.18.3 Travel expenses shall be reimbursed as follows:
- a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
 - b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
 - c) travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;
 - d) travel outside Union territory shall be reimbursed under the general conditions stated above provided the GSA has given its prior written agreement.
- II.18.4 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.
- II.18.5 The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the GSA has given prior written authorisation.

- II.18.6. Conversion between the euro and another currency shall be made using the daily euro exchange rate published in the C series of the Official Journal of the European Union of the day on which the expense was made or, failing that, at the monthly accounting rate established by the GSA and published on its website.

ARTICLE II. 19 – RECOVERY

- II.19.1 If total payments made exceed the amount actually due 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 GSA.
- II.19.2 In the event of failure to pay by the deadline specified in the debit note, the sum due shall bear interest at the rate indicated in Article II.16.3. 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.19.3 The GSA may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on the Union or the European Atomic Energy Community that is certain, of a fixed amount and due. The GSA may also claim against the guarantee, where provided for.

ARTICLE II. 20 – CHECKS AND AUDITS

- II.20.1 Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the Union from signature of the Contract up to five years after payment of the balance of the last implementation.
- II.20.2 The Commission or an outside body of its choice shall have the same rights as the 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 of the last implementation.
- II.20.3 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



European GNSS Agency



(EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance of the last implementation.

ANNEX I (b)

SPECIFIC CONTRACT No [complete]
implementing Framework Contract No GSA/OP/04/11

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

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

ARTICLE III.1: SUBJECT

- III.1.1 This specific contract implements Framework Contract No GSA/OP/04/11 signed by the GSA and the Contractor on [complete date].
- III.1.2 The subject of this specific contract is [short description of subject].
- III.1.3 The Contractor undertakes, on the terms set out in the Framework Contract and in this specific contract and the annex[es] thereto, which form an integral part thereof, to perform the following tasks [:] [specified in Annex [complete].]

ARTICLE III.2: DURATION

- III.2.1 This specific contract shall enter into force [[on the date on which it is signed by the last contracting party].
- III.2.2 The duration of the tasks shall not exceed [days/months]. Execution of the tasks shall start from [date of entry into force of this specific contract] or [indicate date]. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.

ARTICLE III.3: PRICE

- III.3.1 The total amount to be paid by the GSA under this specific contract shall be EUR [amount in figures and in words] covering all tasks executed.
- III.3.2 In addition to the price [no reimbursable costs are foreseen] [costs up to an amount of EUR ... will be reimbursed according to the provisions of the Framework contract]

[For Contractors established in Belgium, the provisions of this contract constitute a request for VAT exemption No 450, provided the Contractor includes the following statement in his invoice(s): "Exonération de la TVA, article 42, paragraphe 3.3 du code de la TVA" or an equivalent statement in the Dutch or German language.]

ARTICLE III.4: ANNEXE[S]

Annex A – Statement of work by the GSA

Annex B – Contractor's specific offer (no [complete] of [complete])

Annex C – Other annexes

SIGNATURES

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

For the GSA,
Carlo des Dorides, Executive Director

signature[s]: _____

signature[s]: _____

Done at [Brussels], [date]

Done at [Brussels], [date]

In duplicate in English.

ANNEX II

TENDER SPECIFICATIONS

ANNEX III
CONTRACTOR'S TENDER

ANNEX IV
MISSION RULES OF THE GSA STAFF AS TO REIMBURSEMENT
OF TRAVEL EXPENSES

REFER TO

C(2008) 6215 final

**COMMISSION DECISION
of 18.11.2008**

**General implementing provisions adopting the Guide to missions for officials and other
servants of the European Commission**

applicable to the GSA Staff

available at

<http://www.gsa.europa.eu/go/home/gsa/procurement/>

ANNEX V
NON-DISCLOSURE AGREEMENT

Ref: GSA/11/_____/CdD/tv

Issue: 1

NON-DISCLOSURE AGREEMENT

Concerning the release and use of proprietary information for the performance of tasks under Contract GSA/OP/04/11 – “Engineering Services for GSA”

By and between,

The European GNSS Agency, hereinafter referred to as the "GSA", set up by Council Regulation (EC) No 912/2010 of 9 November 2010 located at:

56, Rue de la Loi
B-1049 Brussels
Belgium

Represented, for the purpose of the signature of this non-disclosure agreement, by Mr Carlo des Dorides, Executive Director,

and,

_____ hereinafter referred to as the "Recipient",
whose registered office is at:

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Rue de la Loi, 56
B-1049 Brussels
Tel. +32 2 299 79 24
Fax +32 2 292 17 56
www.gsa.europa.eu

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[Official address in full]

Represented, for the purposes of the signature of this non-disclosure agreement, by

[Title and name in full and function of company representative authorised to sign the agreement]

Hereinafter individually referred to as the "Party" or collectively referred to as the "Parties"

PREAMBLE

WHEREAS, the performance of tasks under Contract GSA/OP/04/11 – "Engineering Services for GSA" implies the handling of proprietary information,

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WHEREAS, the acceptance and signature of a non-disclosure agreement has explicitly been made a prior condition for placing any specific contracts under Article I.16 of the Contract for the Contractor, including any of the members of his/her group/consortium and subcontractors of the Contract,

WHEREAS, the Recipient falls in the category of Contractor, members of his/her group/consortium or subcontractors and will or is planned to perform tasks under the Contract,

THEREFORE, the Parties agree the following:

Article 1 – Definitions

For the purpose of this Agreement:

"Agreement" shall refer to the present Non-Disclosure Agreement.

"Proprietary Information" shall refer to each and all documents listed in the annex to this Agreement.

"Purpose" shall refer to the Recipient's participation or involvement in the performance of tasks under Contract GSA/OP/04/11.

"Completion of the Purpose" shall mean the end of the term or termination, if earlier, of

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Contract GSA/OP/04/11.

Article 2 – Scope

- 2.1 This Agreement sets forth the Recipient's obligations regarding access to, use, distribution, disclosure and protection of the Proprietary Information provided by the GSA for the Purpose.
- 2.2 Under this Agreement, the Recipient undertakes to use the Proprietary Information solely for pursuing the Purpose in accordance with the terms of this Agreement.
- 2.3 No provision of this Agreement shall be construed to be an obligation by either Party to disclose information to the other Party or to enter into further agreements with the other.

Article 3 – Confidentiality and conditions of access to and use of the Proprietary Information

- 3.1 The Recipient undertakes to ensure that the access to, use, distribution, disclosure and protection of such information will comply with following conditions:
- 3.1.1 The Proprietary Information is supplied to the Recipient solely and exclusively for the Purpose. The Proprietary Information cannot be used totally or partially, directly or

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indirectly, for any other purpose than that defined in Article 2.2 above, unless the GSA gives its prior written authorisation.

In any case, the Recipient shall not use the Proprietary Information:

- (i) in a manner conflicting with the objectives of the European GNSS programmes;
- (ii) after Completion of the Purpose.

3.1.2 The Recipient shall not copy, reproduce, duplicate, distribute, communicate or otherwise make available the Proprietary Information, either in whole or in part, to third parties unless and to the extent the GSA gives its express prior written authorisation thereto.

3.1.3 The Recipient shall keep the Proprietary Information and any copies thereof secure by effective and reasonable means in such a way as to prevent unauthorised access.

3.1.4 The Recipient will not object to an application for a patent filed by the GSA pleading want of novelty if it is due to:

- (i) receipt of information to be treated as confidential pursuant to this Agreement; or
- (ii) breach of this Agreement by the Recipient.

3.1.5 Nothing contained in this Agreement shall be construed as granting any right, title or interest in the Proprietary Information including any intellectual property right.

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The Recipient shall not itself, nor authorise any third party to, write, publish or disseminate any description of the Proprietary Information or elements of it, such as its structure or content for so long as it is bound by this Agreement.

3.1.6 In the event that the Recipient becomes aware of any unauthorised use of the Proprietary Information or of any unauthorised copy of the Proprietary Information in the public domain or with third parties or of any unauthorised derivative work, it shall immediately inform the GSA thereof.

3.2 Disclosure, protection and use of Classified Proprietary Information shall, in addition to the terms and conditions of this Agreement, be made pursuant to the security procedures specified by the authorities concerned.

Article 4 – Limitation on protection of the Proprietary Information

The obligations contained in Article 3 are not applicable to information that the Recipient can demonstrate by written evidence:

- 4.1 has come into the public domain prior to, or after, the date of receipt of the Proprietary Information from the GSA through no fault or unauthorised act of the Recipient;
- 4.2 was already lawfully developed or acquired by the Recipient at the date of receipt of the Proprietary Information from the GSA;
- 4.3 has been or is published without violation of this Agreement;

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- 4.4 was lawfully obtained by the Recipient without restriction and without breach of this Agreement from a third party, who is in lawful possession thereof, and under no obligation of confidence to the GSA;
- 4.5 is disclosed pursuant to the request of a governmental or jurisdictional authority or is disclosed according to the law or regulations of any country with jurisdiction over the Recipient; in either case the Recipient, subject to possible constraints of such governmental or jurisdictional authority, shall immediately give the GSA a written notice of the above request and shall reasonably cooperate with the GSA in order to avoid or limit such disclosure;
- 4.6 was disclosed and/or used pursuant to and to the extent of an express written authorisation from the GSA.

Article 5 – Return of Proprietary Information

- 5.1 Upon Completion of the Purpose or at the GSA's written request, the Recipient shall return to the GSA all the Proprietary Information.
- 5.2 Paragraph 5.1 above shall not apply to the extent that the Recipient is required to retain any such Proprietary Information by any applicable law, rule or regulation or by any competent judicial or governmental body. In such a case the recipient shall provide due justification (with supporting documents) to the GSA.

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Article 6 – Breach of obligations

Should the Recipient breach any of its obligations of confidentiality under this Agreement and without prejudice to any right of the GSA to seek damages before any competent jurisdiction, the GSA may, by written notice to the Recipient, withdraw the right of the Recipient to use the Proprietary Information for the Purpose.

Article 7 – Duration of this Agreement and protection of the Proprietary Information

- 7.1 This Agreement shall enter into force on the date of the last signature by the Parties and shall remain in effect until the Completion of the Purpose.
- 7.2 The obligations imposed by Articles 2 and 3 above with respect to the access to, use, distribution, disclosure and protection of Proprietary Information for pursuing the Purpose shall apply:

- for 10 years with regards to Proprietary Information;
- in accordance with the procedures and duration specified by the authorities concerned with regards to Classified Proprietary Information

from the date of entry into force of the Agreement, notwithstanding the Completion of the Purpose.

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Article 8 – Communication of the Proprietary Information and regarding the Agreement

8.1 The GSA shall send the Proprietary Information to the following person:

Title and full name	
Function	
Company name	
Official address in full	
Telephone number	
Fax number	

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GSA Initial	



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Email address	

8.2 The GSA shall send any communication regarding the Agreement to the following person:

Title and full name	
Function	
Company name	
Official address in full	
Telephone number	

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GSA Initial	



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Fax number	
Email address	

8.3 The Recipient shall send any communication regarding the Agreement to the following person:

Title and full name	Ms Triinu Volmer
Company name	GSA
Official address in full	Rue de la Loi 56 B-1049 Brussels Belgium
Fax number	+32 (0)2 292 07 41

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Recipient	Initial
GSA Initial	

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Email address	tenders@gsa.europa.eu
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8.4 In accordance with Article 5 above, the Recipient shall return the Proprietary Information to the following person:

Title and full name	Mr Olivier Crop
Function	Local Security Officer
Company name	GSA
Official address in full	Rue de la Loi 56 B-1049 Brussels Belgium
Email address	tenders@gsa.europa.eu

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Article 9 – Waiver, disclaimer and liability

- 9.1 No failure or delay by the GSA in exercising any of its rights under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise preclude any other or further exercise of such rights.
- 9.2 The Proprietary Information is provided "as is" and the GSA disclaims all warranties of any kind relating to the Proprietary Information, whether expressed or implied, including but not limited to, any implied warranty against infringement of third party property rights or as to merchantability or fitness for any particular purpose.
- 9.3 The GSA will not be liable for any damages whatsoever including, but not limited to, damages for loss of business profit, business interruption, loss of business information, or any other pecuniary loss arising out of the use of, or inability to use, the Proprietary Information.

Article 10 – Applicable law; Dispute

- 10.1 This Agreement shall be governed and construed in accordance with the laws of Belgium.
- 10.2 The Parties shall make their best efforts to settle amicably all disputes arising in connection with this Agreement.
- 10.3 If such amicable settlement fails, the said dispute shall be finally settled by the Court of Justice of the European Union in accordance with its rules of procedure.

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Article 11 – Final provisions

- 11.1 The Parties shall bear their own costs incurred under or in connection with the present Agreement.
- 11.2 This Agreement and the rights and obligations hereunder may not be transferred or assigned by the Recipient without the prior express written approval of the GSA.
- 11.3 This Agreement represents the entire understanding and agreement of the Parties with respect to the Proprietary Information, as defined in Article 2 above, and supersedes and cancels any and all previous declarations, negotiations, commitments, communications either oral or written, approvals, agreements and non-disclosure agreements between the Parties in respect thereto. Any rights and obligations which, by their nature, are to remain in effect beyond expiration or termination of such non-disclosure agreements will survive.
- 11.4 If any term of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, this shall not affect the legality, validity or enforceability in that jurisdiction of any other terms of this Agreement, nor the legality, validity or enforceability in other jurisdictions of that or any other provision of this Agreement.
- 11.5 No amendment or modification of this Agreement shall be binding or effective unless made in writing and signed on behalf of both Parties by their respective duly authorised representative.

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Done in two originals in the English language,

<p>On behalf of _____ [Recipient name]</p> <p>Read and agreed,</p> <p>On [date] _____, in</p> <p>[place] _____</p> <p>Signature:</p>	<p>On behalf of the GSA</p> <p>Read and agreed,</p> <p>On _____, in</p> <p>Brussels</p> <p>Signature:</p> <p>Mr Carlo des Dorides, Executive Director of the GSA for the signature of this Agreement</p>
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5.3. Model Guarantee (n/a)

[MODEL] LETTER FOR PRE-FINANCING FIRST DEMAND GUARANTEE

Financial institution/Bank (Letterhead)
[Place/Date]

European GNSS Agency
Rue de la Loi 56
B – 1049 Belgium

Reference: Contract N° and exact title:

ARTICLE 1 – DECLARATION ON GUARANTEE, AMOUNT AND PURPOSE

We, the undersigned [name and address of the financial institution or bank] (hereinafter referred to as "the Guarantor") hereby confirm that we give the European GNSS Agency (hereinafter referred to as "the Agency"), an unconditional, irrevocable and independent first-demand guarantee consisting in the undertaking to pay to the Agency a sum equivalent to the amount of:

EUR [in figures: ...] (in words: ... EUR)

upon simple demand, for guarantee of the pre-financing(s) stipulated in the contract (N°/exact title, hereinafter referred to as the "contract") concluded between the Agency and [name and address], (hereinafter referred to as "the Contractor").

ARTICLE 2 – EXECUTION OF GUARANTEE

If the Agency gives notice that the Contractor has for any reason failed to reimburse pre-financings paid by the Agency, we, acting by order and for account of the Contractor, shall undertake to immediately pay up to the above amount, in EUR, without exception or objection, into [Option 1: a bank account designated by the Agency] [Option 2: the following bank account: (...)], on receipt of the first written request from the Agency sent by registered letter or by courier with acknowledgement of receipt. We shall inform the Agency in writing as soon as the payment has been made.

ARTICLE 3 – OBLIGATIONS OF THE GUARANTOR

1. We waive the right to require exhaustion of remedies against the Contractor, any right to withhold performance, any right of retention, any right of avoidance, any right to offset, and the right to assert any other claims which the Contractor may have against the Agency under the contract or in connection with it or on any other grounds.
2. Our obligations under this guarantee shall not be affected by any arrangements or agreements made by the Agency with the Contractor which may concern his/her obligations under the contract.

3. We shall undertake to immediately inform the Agency in writing, by registered letter or by courier with acknowledgement of receipt, in the event of a change of our legal status, ownership or address.

ARTICLE 4 – DATE OF ENTRY INTO FORCE

This guarantee shall come into force upon its signature. If, on the date of its signature, the [first] pre-financing has not been paid to the Contractor, this guarantee shall enter into force on the date on which the Contractor receives the [first] pre-financing.

ARTICLE 5 – END DATE AND CONDITIONS OF RELEASE

1. We may be released from this guarantee only with the Agency's written consent.
2. This guarantee shall expire on return of this original document by the Agency to our offices by registered letter or by courier with acknowledgement of receipt.
3. This must occur at the latest during the month after the pre-financing under the contract has been cleared through interim payment[s].
4. After expiry, this guarantee shall become automatically null and void and no claim relating thereto shall be receivable for any reason whatsoever.

ARTICLE 6 – APPLICABLE LAW AND COMPETENT JURISDICTION

Option 1

1. This guarantee shall be governed by and construed in accordance with the law applicable to the contract.
2. The courts having jurisdiction for matters relating to the contract shall have sole jurisdiction in respect of matters relating to this guarantee.

ARTICLE 7 - ASSIGNMENT

The rights arising from this guarantee may not be assigned [without our written consent].

Done at [insert place], on [insert date]

[Signature/
Function at the Financial Institution/Bank]

[_____]_____
[Signature/
Function at the Financial Institution/Bank]

5.4. Financial and Economic Capacity Overview Form (Invitation to Tender)

Explanation – please read carefully before completing the financial capacity forms

Summary Information Sheet

Candidate submitting a request to participate has to fill in the Summary Information Sheet (table E.1) including entries for all legal entities involved- members of the consortium as well as sub-contractors.

Simplified balance sheet and profit and loss account

Within the form, financial data based on the company's /organisation's balance sheet are collected in a standardised form. Please find below a correspondence table giving an explanation on the regrouping of different accounts. You should complete this form carefully. Given its complexity, it is recommended that the form be completed by a professional accountant or an auditor. The data reported will be used to evaluate the financial viability of the company/organisation. Thus it is very important that data reported are accurate. The GSA may wish to cross check the data with those reported in the official certified accounts. For this purpose, apart from the present document duly filled-in by each applicant, the GSA requests copies of the full financial statements corresponding to the last three audited years.

Please clarify the currency used in the simplified balance sheet and profit and loss account. Candidates shall finally indicate if they are a profit or a non profit making organisation.

Abbreviations t0, t-1, t-2, and t-3

The abbreviation t0 represents the last certified financial statements; t-1, t-2 and t-3 are the three last financial statements prior to the last certified one. Consequently, the closing date t0 is the closing date of the last certified historical balance sheet.

Table E.1.					
Summary Information Sheet					
Legal entity no1					
Name	DESCRIPTION	AMOUNT t0	AMOUNT t-1	AMOUNT t-2	AMOUNT t-3
		Currency in m	Currency in m	Currency in m	Currency in m
	Annual Turnover				
	Annual Turnover related to tasks similar to those covered by this contract (min. 1.5Meuro p/a)				
	Operating Profit				
	Net Profit				
	Non-current Assets				
	Current Assets				
	Owner's Equity				
	Non-current Liabilities				
	Current Liabilities				

Name

Signature

Date

Legal entity no2					
Name	DESCRIPTION	AMOUNT t0	AMOUNT t-1	AMOUNT t-2	AMOUNT t-3
		Currency in m	Currency in m	Currency in m	Currency in m
	Annual Turnover				
	Annual Turnover related to tasks similar to those covered by this contract (min. 1.5Meuro p/a)				
	Operating Profit				
	Net Profit				
	Non-current Assets				
	Current Assets				
	Owner's Equity				
	Non-current Liabilities				
	Current Liabilities				

Name

Signature

Date

Continue with as many entries as required above (entries for all legal entities involved- members of the consortium as well as sub-contractors)

Please fill in the last three columns (AMOUNTS), in line with the given DESCRIPTION, for the three following tables: ASSETS, LIABILITIES and PROFIT & LOSS ACCOUNT separately for each legal entity participating in the tendering procedure (all members of consortium as well as sub-contractors).

SIMPLIFIED BALANCE SHEET					
Table E.2.					
ASSETS	DESCRIPTION	AMOUNT t0	AMOUNT t-1	AMOUNT t-2	AMOUNT t-3
Total fixed assets					
Intangible fixed assets	Formation expenses as defined by national law Capitalised development costs within R& D activities Concessions, patents, licences, trade marks and similar rights Goodwill, to the extent that it was acquired for valuable consideration Payments on account				
Tangible fixed assets	Land and buildings Plant and machinery Other fixtures and fittings, tools and equipment Payment on account and tangible assets in course of construction				
Financial assets	Shares in affiliated undertakings Loans to affiliated undertakings Participating interests Loans to undertakings with which the company is linked by virtue of participating interest Investments held as fixed assets Other loans and other shares				
Debtors due	Trade debtors				



European GNSS Agency



after one Year	Amounts owed by affiliated undertakings Amounts owed by undertakings with which the company is linked by virtue of participating interest Others debtors Prepayments and accrued income				
Total current assets					
Stocks and contracts in progress	Raw materials and consumables Work in progress Finished products and goods for resale Payment on account				
Debtors due within one year	Trade debtors Amounts owed by affiliated undertakings Amounts owed by undertakings with which the company is linked by virtue of participating interest Others debtors Prepayments and accrued income				
Other current assets	Shares in affiliated undertakings Own shares Other investments				
Cash at bank and in hand	Cash at bank and in hand				
Total assets					

Name

Signature

Date

Table E.3.					
LIABILITIES	DESCRIPTION	AMOUNT t0	AMOUNT t-1	AMOUNT t-2	AMOUNT t-3
Own funds					
Subscribed capital	Subscribed capital Share premium account				
Reserves	Revaluation reserve Legal reserve, in so far as national law requires such a reserve Reserve for own shares Reserves provided for by the articles of association Other reserves				
Profit and loss brought forward	Profit and loss brought forward from the previous years				
Profit and loss for the year	Profit or loss for the financial year				
Debts and borrowed funds payable in +1 year					
Long term non-bank debt	Provisions for pensions and similar obligations Provisions for taxation and other provisions Other loans Payments received on account of orders in so far as they are not shown separately as deductions from stocks Trade creditors Amounts owed to affiliated undertakings Amounts owed to undertakings with which the company is linked by virtue of participating interests Other creditors including tax and social security Accruals and deferred income				

Long term bank debt	Amounts owed to credit institutions Bills of exchange payable				
Debts and borrowed funds payable in -1 year					
Short term non-bank Debt	Provisions for pensions and similar obligations Provisions for taxation and other provisions Other loans Payments received on account of orders in so far as they are not shown separately as deductions from stocks Trade creditors Amounts owed to affiliated undertakings Amounts owed to undertakings with which the company is linked by virtue of participating interests Other creditors including tax and social security Accruals and deferred income				
Short term bank debt	Amounts owed to credit institutions Bills of exchange payable				
Total liabilities					

Name

Signature

Date

Table E.4.					
PROFIT AND LOSS ACCOUNT					
PROFIT & LOSS	DESCRIPTION	AMOUNT t0	AMOUNT t-1	AMOUNT t-2	AMOUNT t-3
Total operating income					
Turnover	Net turnover				
Variation in stocks	Variation in stocks of finished goods and work in progress				
Other operating income	Work performed by the undertaking for its own purposes and capitalized Other operating income				
Total operating expenditure					
Costs of material and consumables	Raw materials and consumables Other external charges				
Other operating charges	Other operating charges				
Staff costs	Wages and salaries Social security costs and other related costs				
Gross operating surplus = Total operating income – Total operating expenditure					
Depreciation & amortization	Depreciation & amortization				
Net operating surplus = Gross operating surplus + depreciation & amortization					
Financial products	Income from participating interests Income from other investments and loans forming part of the fixed assets Other interest receivable and similar income Value adjustments in respect of financial				

	assets and of investments				
Financial charges	Financial charges				
Extraordinary income	Extraordinary income				
Extraordinary charges	Extraordinary charges				
Tax on profits	Tax on profit or loss on ordinary activities Tax on extraordinary profit or loss Other taxes not shown under the above items				
Profit or loss for the financial year	Profit or loss for the financial year				

Name

Signature

Date

You may add any data that you would consider of vital relevance for your organisation and for the understanding of the above figures.

Comments: Please explain BRIEFLY important variations from one year to another if appropriate. In case of negative equity or repeated losses, please explain how the future of the organisation will be ensured.

5.5. Subcontractor / Letter of Intent

GSA/OP/04/11- "Engineering Services for the GSA"

The undersigned:

Name of the company/organisation:

Address:

Declares hereby the commitment to collaborate in the execution of the tasks subject to the above call for tender, in accordance with the terms of the tender to which the present form is annexed, if the contract is awarded to (name of the tenderer) and to make to him/her available the competence (resources and other capacities) of my/our company/organisation in particularly in the area described under section 2. below;

Further declares hereby accepting the terms and conditions set out in 1.9 of the Tender Specifications for the procurement made known to us by the tenderer, in particular Article II.6 of the standard draft Framework Service Contract by returning this form filled in and signed.

Sub-contracting is intended for the following performance:

1. Brief description of the performance which will be rendered by the subcontractor:

2. Brief description of the resources of the subcontractor required for the performance of the contract:

3. Estimated proportionate value (in%) of services to the total contract value to be subcontracted to the present company/organisation:

Full name

Date

Signature

.....

5.6. Power of Attorney POWER OF ATTORNEY – MODEL 1

Agreement / Power of Attorney

(DESIGNATING ONE OF THE COMPANIES OF THE GROUP AS LEADER AND
GIVING A MANDATE TO IT)

We the undersigned:

- Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- Signatory 2 (Name, Function, Company, Registered address, VAT Number)
-
- Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company, HEREBY AGREE AS FOLLOWS:

In case the Agency awards Contract (« the Contract ») to Company 1, Company 2, ..., Company N (« the Group Members »), based on the joint tender submitted by them on for the supply of and/or the provision of services for ... (« the Supplies and/or the Services »).

(1) As co-signatories of the Contract, all the Group Members:

- (a) Shall be jointly and severally liable towards the European GNSS Agency for the performance of the Contract.
- (b) Shall comply with the terms and conditions of the Contract and ensure the proper execution of their respective share of the Supplies and/or the Services.

(2) To this effect, the Group Members designate Company X as Group Leader. [N.B.: The Group Leader has to be one of the Group Members]

(3) Payments by the European GNSS Agency related to the Supplies or the Services shall be made through the Group Leader's bank account. [Provide details on bank, address, account number, etc.].



European GNSS Agency



- (4) The Group Members grant to the Group Leader all the necessary powers to act on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks:
- (a) The Group Leader shall sign any contractual documents—including the Contract and Amendments thereto—and issue any invoices related to the Supplies or the Services on behalf of the Group Members.
- (b) The Group Leader shall act as single point of contact for the European GNSS Agency in connection with the Supplies and/or the Services to be provided under the Contract. It shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European GNSS Agency, and shall see to a proper administration of the Contract.

Any modification to the present agreement / power of attorney shall be subject to the Agency's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the Agency in connection with the Supplies and/or the Services to be provided under the Contract have ceased to exist. The parties cannot terminate it before that date without the Agency's consent.

Signed in on

Name

Function

Company

Name

Function

Company

Name

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Function

Company

POWER OF ATTORNEY – MODEL 2

Agreement / Power of Attorney

(CREATING THE GROUP AS SEPARATE ENTITY, APPOINTING A GROUP
MANAGER AND GIVING A MANDATE TO HIM/HER)

We the undersigned:

- Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- Signatory 2 (Name, Function, Company, Registered address, VAT Number)
-
- Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company, HEREBY
AGREE AS FOLLOWS:

In case the European GNSS Agency awards Contract (« the Contract ») to Company 1,
Company 2, ..., Company N (« the Group Members »), based on the joint tender submitted
by them on for the supply of and/or the provision of services for ... (« the Supplies
and/or the Services »).

(1) As co-signatories of the Contract, all the Group Members:

- (a) Shall be jointly and severally liable towards the European GNSS Agency for the
performance of the Contract.
- (b) Shall comply with the terms and conditions of the Contract and ensure the proper
execution of their respective share of the Supplies and/or the Services.

(2) To this effect, the Group Members have set up under the laws of the Group (« the
Group »). The Group has the legal form of a [Provide details on registration of the Group:
VAT Number, Trade Register, etc.].

(3) Payments by the European GNSS Agency related to the Supplies or the Services shall be
made through the Group's bank account . [Provide details on bank, address, account number,
etc.].

(4) The Group Members appoint Mr/Ms as Group Manager.



European GNSS Agency



(5) The Group Members grant to the Group Manager all the necessary powers to act alone on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks:

- (a) The Group Manager shall sign any contractual documents—including the Contract, and Amendments thereto—and issue any invoices related to the Supplies or the Services on behalf of the Group Members.
- (b) The Group Manager shall act as single point of contact for the European GNSS Agency in connection with the Supplies and/or the Services to be provided under the Contract. He/she shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European GNSS Agency, and shall see to a proper administration of the Contract.

Any modification to the present agreement / power of attorney shall be subject to the European GNSS Agency's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the European GNSS Agency in connection with the Supplies and/or the Services to be provided under the Contract have ceased to exist. The parties cannot terminate it before that date without the Agency's consent.

Signed in on

Name

Function

Company

Name

Function

Company

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Name

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Company

5.7. Checklist of Documents to be Submitted

The purpose of the table below is to facilitate the preparation of the tender by providing an overview of the documents that must be included (marked by n) depending on the role of each economic operator in the tender (coordinator/group leader in joint tender, partner in joint tender, single contractor, main contractor, subcontractor).

Some of the documents are only relevant in cases of joint tenders or when subcontractors are involved. Additional documents might be necessary depending on the specific characteristics of each tender.

Description	Section	Coordinator or group leader in joint tender	All partners in joint tender	Single or Main contractor	Sub-contractor
Power of attorney of partners in joint tender indicating the group leader (see annex 5.6)	1		n		
Letter of intent of subcontractor (see annex 5.5)	1				n
Legal Entity Form (see section 2.3.1) Download the form from : http://ec.europa.eu/budget/execution/legal_entities_en.htm	1	n	n	n	n
Supporting documents for the Legal Entity File Form	1	n	n	n	
Financial Identification form (see section 2.3.1) Download the form from: http://europa.eu.int/comm/budget/execution/ftiers_fr.htm .	1	n		n	
Exclusion Criteria form (see section 3.1 and annex 5.1)	2	n	n	n	n
Evidence of Economic and financial capacity (see section 3.2.2 and annex 5.4)	3	n	n	n	n ⁸
Evidence of Technical and professional capacity (see section 3.2.3) Go to the following page to fill in the CV:	3	n	n	n	n

⁸ If planned to perform more than 20% of the estimated total contract value of EUR 7,000,000 (seven million euros) and/or referred to by the tenderer as proof of his/her economic and financial capacity,

http://europass.cedefop.europa.eu/europass/preview.action?locale_id=1

The following sections must be provided in the tender, their absence would mean rejection of the tender for incompleteness:

Description	Section	Coordinator or single tenderer
Technical Proposal (see section 2.3.2 and section 4)	4	n
Financial Proposal (see section 2.3.3)	5	n