SUBJECT: Procurement of a fixed wing Maritime Patrol Aircraft (MPA).

Tender Document: CT2427/2008

The cost of this tender dossier is €100.

Tenders may be viewed (free of charge), or downloaded (against payment) from:

www.contracts.gov.mt

Note:

Please note that the mandatory bid-bond is to remain valid up to 21st August 2009.

A. INSTRUCTIONS TO TENDERERS.................................................................
   1 SUPPLIES TO BE PROVIDED............................................................
   2 TIMETABLE ......................................................................................
   3. PARTICIPATION..................................................................................
   4. ORIGIN .............................................................................................
   5. TYPE OF CONTRACT ..........................................................................
   6. CURRENCY .........................................................................................
   7. LOTS ..................................................................................................
   8. PERIOD OF VALIDITY ..........................................................................
   9. LANGUAGE OF OFFERS ......................................................................
  10. SUBMISSION OF TENDERS .................................................................
  11. CONTENT OF TENDERS .................................................................
  12. PRICING ...........................................................................................
  13. ADDITIONAL INFORMATION BEFORE THE DEADLINE FOR SUBMISSION OF TENDERS...
  14. CLARIFICATION MEETING / SITE VISIT ..............................................
  15. ALTERATION OR WITHDRAWAL OF TENDERS ..................................
  16. COSTS OF PREPARING TENDERS ..................................................
  17. OWNERSHIP OF TENDERS ..............................................................
  18. JOINT VENTURE OR CONSORTIUM ..................................................
  19. OPENING OF TENDERS .................................................................
  20. EVALUATION OF TENDERS .............................................................
  21. SIGNATURE OF THE CONTRACT AND PERFORMANCE GUARANTEE ....
  22. TENDER GUARANTEE .................................................................
  23. CONFIDENTIALITY ...........................................................................
  24. ETHICS CLAUSES ............................................................................
  25. CANCELLATION OF THE TENDER PROCEDURE ................................
  26. GENDER EQUALITY ........................................................................
  27. DATA PROTECTION .........................................................................
  28. PART XII - SEPARATE PACKAGES IN TENDER OFFER........................
  29. PART XIII - PROCEDURE FOR THE SUBMISSION OF APPEALS........

B. DRAFT CONTRACT AND SPECIAL CONDITIONS, INCLUDING ANNEXES...
   DRAFT CONTRACT ................................................................................
   SPECIAL CONDITIONS ......................................................................
   ANNEX I: GENERAL CONDITIONS ....................................................
   ANNEX II: TECHNICAL SPECIFICATIONS ........................................
   ANNEX III: MODEL FINANCIAL OFFER (TO BE TAILORED TO THE SPECIFIC PROJECT) ....
   ANNEX IV: MODEL PERFORMANCE GUARANTEE ................................
   ANNEX V: PRE-FINANCING GUARANTEE FORM ................................
   ANNEX VI: BID BOND ........................................................................
   ANNEX VII: DETAILS OF BIDDER .....................................................
   ANNEX VIII: DECLARATION RE-EXCLUSION CRITERIA ....................

C. FURTHER INFORMATION
   GLOSSARY ..........................................................................................
   ADMINISTRATIVE COMPLIANCE GRID ............................................
   EVALUATION GRID ...........................................................................
   FINANCIAL IDENTIFICATION .............................................................
   DETAILS OF BIDDER .........................................................................

D. TENDER FORM FOR A SUPPLY CONTRACT ..............................................
A. INSTRUCTIONS TO TENDERERS

PUBLICATION REF.: CT2427/2008

In submitting a tender, the tenderer accepts in full and without restriction the special and general conditions governing this contract as the sole basis of this tendering procedure, whatever his own conditions of sale may be, which he hereby waives. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified will lead to the rejection of the tender. No account can be taken of any reservation in the tender as regards the tender dossier; any reservation will result in the immediate rejection of the tender without further evaluation.

A glossary of the terms used here is included in Part C of this tender dossier.

1 Supplies to be provided

1.1 The subject of the contract is the manufacture, delivery, commissioning, after-sales service and provision of training by the Contractor of the following goods:

This tender will provide the procurement of a one (1) fixed-wing maritime patrol aircraft for maritime surveillance purposes in 1 lot at the place of build, VAT exempt and with all transport costs to Malta covered by the tenderer.

The aircraft must be brand new and furnished from a current line of production (failure to meet this obligation will result in the tender being rejected. Reconditioned Aircrafts are not allowed)

1.2 The supplies must comply fully with the technical specifications set out in the tender dossier (technical annex) and conform in all respects with the drawings, quantities, models, samples, measurements and other instructions.

1.3 Tenderers are authorised to tender for one (1) fixed-wing maritime patrol aircraft for maritime surveillance proposes and with the option of procuring another fixed-wing MPA for maritime surveillance purposes subject to the availability of funds from the European Borders Fund project for year 2010.
2 **Timetable**

<table>
<thead>
<tr>
<th></th>
<th>DATE</th>
<th>TIME*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Deadline for request for any clarifications from the Central Government Authority</strong></td>
<td>9th March 2009</td>
<td></td>
</tr>
<tr>
<td><strong>Clarification meeting / site visit (if any)</strong></td>
<td>Not Applicable</td>
<td>Not Applicable</td>
</tr>
<tr>
<td><strong>Last date on which clarifications are issued by the Central Government Authority</strong></td>
<td>18th March 2009</td>
<td></td>
</tr>
<tr>
<td><strong>Deadline for submission of tenders</strong></td>
<td>24th March 2009</td>
<td>10.00 a.m.</td>
</tr>
<tr>
<td><strong>Tender Validity Period</strong></td>
<td>21st August 2009</td>
<td></td>
</tr>
</tbody>
</table>

* All times are in the time zone of the country of the Central Government Authority

3. **Participation**

3.1 Participation in tendering is open on equal terms to all natural and legal persons of the Member States of the European Union, the beneficiary country and any other country in accordance with Article 68 of LN177/2005. All works, supplies and services must originate in one or more of these countries.

3.2 These terms refer to all nationals of the said states and to all legal entities, companies or partnerships constituted under, and governed by, the civil, commercial or public law of such states and having their statutory office, central administration or principal place of business there. A legal entity, company or partnership having only its statutory office there, must be engaged in an activity which has an effective and continuous link with the economy of the state concerned. Tenderers must provide evidence of their status.

3.3 These rules apply to:
   a) tenderers
   b) members of a consortium
   c) any subcontractors.

3.4 Natural persons, companies or undertakings for whom the conditions set out in Article 49 of the Public Contracts Regulations, 2005 apply, may be excluded from participation in and the award of contracts. Tenderers or candidates who have been guilty of making false declarations will also incur financial penalties representing 10% of the total value of the contract being awarded. That rate may be increased to 20% in the event of a repeat offence within five years of the first infringement. Tenderers are to fill in form at Annex VIII as per clause 11.2 (j).

3.5 To be eligible for participation in this tender procedure, tenderers must prove to the satisfaction of the Central Government Authority that they comply with the necessary legal, technical and financial requirements and have the wherewithal to carry out the contract effectively.

3.6 **Selection Criteria:**


Minimum 10 years experience in the aircraft manufacturing sector.

At least 3 existing military/paramilitary/police customers using their aircraft in the maritime patrol role (References /Certificates must be provided as part of the offer).

Comply with any other criteria stated in Tender Documents.)
4. Origin
4.1 Unless otherwise provided in the Special Conditions, supplies may originate in a Member State of the European Union or any other country as stipulated in Article 68 of the Public Contracts Regulations. The origin of the goods shall be determined according to the Community Customs Code or the international agreements to which the country concerned is a signatory.

4.2. When submitting his tender, the tenderer must state expressly that all the goods meet the requirements concerning origin and must state the respective countries of origin. He may be asked to provide additional information in this connection.

5. Type of contract
   Lump Sum

6. Currency
   Tenders must be presented in Euro.

7. Lots
   7.1 This tender procedure is not divided into lots. Tenders must be for the entirety of the quantities indicated.

8. Period of validity
   8.1. Tenderers shall be bound by their tenders for a period of 150 days from the deadline for the submission of tenders.

   8.2. In exceptional cases and prior to the expiry of the original tender validity period, the Central Government Authority may ask tenderers in writing to extend this period. Tenderers that agree to do so will not be permitted to modify their tenders. If they refuse, their participation in the tender procedure will be terminated.

   8.3. The successful tenderer will be bound by his tender for a further period of 60 days following receipt of the notification that he has been recommended for award.

9. Language of offers
   9.1. The offers, all correspondence and documents related to the tender exchanged by the tenderer and the Central Government Authority must be written in the language of the procedure.

   9.2. Supporting documents and printed literature furnished by the tenderer may be in another language, provided they are accompanied by an accurate translation into the language of the procedure. For the purposes of interpretation of the tender, the language of the procedure will prevail.

10. Submission of tenders
    3 PACKAGE SYSTEM
    10.1 Tenders must be submitted in English and received before the deadline specified in Article 2 above. They must include the Tender submission form in part D (to be inserted in envelope 3) of this tender dossier and the Contact Details of the Tenderer/s (to be inserted in Envelope 2) and be submitted:

       EITHER by recorded delivery (official postal service) or hand delivered to:

       Department of Contracts
       Notre Dame Ravelin
       Floriana CMR 02
       MALTA
Tenders submitted by any other means will not be considered

The procedure used for submission of offers must be that laid down in Article 28 below that is in three (3) separate and sealed packages as follows:

(a) Package One: an original and valid tender bond (Bid Bond), duly executed in the form, for the amount and for the validity period stipulated in the official tender document;
(b) Package Two: technical specifications including supportive literature, details, designs, samples and any other matter as requested in the tender documents; and
(c) Package Three: completed price schedules and, or bills of quantities, form of tender, payment terms or other financial arrangements; any covering letter which may provide other pertinent details of a commercial nature.

It has to be emphasised that financial proposals are to be submitted **ONLY** in Package 3.

Tenders must comply with the following conditions:

10.2 All tenders must be submitted in one original, marked “original” and <2> copies signed in the same way as the original and marked “copy”. [other specifications regarding the submission of tenders]
10.3 All tenders must be deposited in the tender box at the address mentioned in Article 10.1 above before the deadline date and time.
10.4 All tenders, including annexes and all supporting documents, must be submitted in a sealed envelope/package/s bearing:
   a) the above address;
   b) the reference code of this tender procedure, (i.e., publication reference);
   c) where applicable, the number of the lot(s) tendered for;
   d) the words “Not to be opened before the tender opening session”.

11. Content of tenders

All tenders submitted must comply with the requirements in the tender dossier and comprise:

3 PACKAGE SYSTEM

11.1. The Original bid-bond for the amount of €50,000.00 must be provided according to the model annexed (Annex VI) to the tender dossier.

   This is to be inserted in Package 1.

11.2. A technical bid consisting of:

a) a detailed description of the supplies tendered in conformity with the technical specifications, including any documentation required, and any addenda that may be issued;

b) a detailed description of the service and support package proposals by the tenderer in conformity with the technical specifications and a detailed description of the spare parts and consumables for a three-year period based on the operational tempo described in the technical annex;

c) a technical training proposal for pilots, technical support staff and operators as detailed in the technical annex;

d) Contact Details of the Tenderer/s in the duly signed form provided in Annex VII (Details of Bidder).

e) Information related to the selection criteria as per Article 3.6 of the Instructions to Tenderers.

f) A statement by the tenderer attesting the origin of the supplies tendered (or other proofs of origin).

g) A description of the commercial warranty tendered.

h) A signed declaration from each legal entity identified in the tender form certifying their eligibility to participate, using the form attached at Annex VII.
i) A diskette, CD-ROM or pen-drive containing the electronic version of the technical offer.

All the information under Article 11.2 is to be inserted in Envelope number 2.

N.B. Tenderers must indicate where the above documentation is to be found in their offer by using an index.

11.3 A financial bid calculated on a basis of DDU for the supplies tendered, including if applicable:
   a) the costs of commissioning;
   b) service and support package, including necessary parts for use over 3 years;
   c) the required training proposal;
   d) the details of the bank account into which the payment shall be made (as per Financial Identification Form attached)
   e) Duly authorised signature.
   f) An electronic version of the financial offer in the template format.
   g) Tender Form inc. Declaration.

All the information under Article 11.3 is to be inserted ONLY in Package 3.

12. **Pricing**

12.1. Tenderers will be deemed to have satisfied themselves, before submitting their tender(s), as to (its)(their) correctness and completeness, to have taken account of all that is required for the full and proper performance of the contract and to have included all costs in their rates and prices.

12.2. Depending on whether the supplies proposed are manufactured locally or are to be imported into the country of the Central Government Authority, Tenderers must quote, by lot, unit (and overall) prices for their tenders on one of the following bases:
   a) place of destination and in accordance with the above conditions, excluding all domestic taxation applicable to their manufacture;
   b) for supplies to be imported into the country of the Central Government Authority, unit and overall prices must be quoted for delivery to the place of destination and in accordance with the above conditions, including all duties and taxes (levy/eco contribution), if applicable to their importation. This procurement is VAT-exempt as per VAT Act, Fifth Schedule, Part 1, Para. 7(5);

If applicable, VAT and all other taxes are to be quoted separately.
   c) For contracts over €932,000, where VAT is not an eligible cost, and whose output VAT is liable to be paid in Malta, such VAT will be paid directly to the VAT Department in Malta by the Final Beneficiary.

12.3. Whatever the origin of the supplies, the contract is exempt from stamp and registration duties.

12.4. The prices for the contract, must include all of the supplies to be provided. The prices quoted are fixed and not subject to revision or escalation in costs.

12.5 The budget available for this tender is €9,696,497.20 (excluding VAT). Any offers exceeding this budget will be rejected.

13. **Additional information before the deadline for submission of tenders**

The tender dossier should be clear enough to preclude the need for candidates invited to tender to request additional information during the procedure. If the Central Government Authority, either on its own initiative or in response to a request from a prospective tenderer, provides additional information on the tender dossier, it must send such information in writing to all other prospective tenderers at the same time.
Tenderers may submit questions in writing to the following address up to 16 calendar days before the deadline for submission of tenders, specifying the publication reference and the contract title:

Contact name: Director of Contracts  
Address: Department of Contracts  
Notre Dame Ravelin  
Floriana  
VLT2000  
Malta  
Fax: +356 21 247 681  
E-mail: info.contracts@gov.mt

Any clarification of the tender dossier will be communicated simultaneously in writing to all the tenderers at the latest 6 calendar days before the deadline for submission of tenders. No further clarification will be provided after this date.

Any prospective tenderers seeking to arrange individual meetings with the Central Government Authority during the tender period will be excluded from the tender procedure.

14. Clarification meeting / site visit
14.1 No clarification meeting / site visit planned.

15. Alteration or withdrawal of tenders
15.1. Tenderers may alter or withdraw their tenders by written notification prior to the deadline for submission of tenders referred to in Article 10.1. No tender may be altered after this deadline. Withdrawals must be unconditional and will end all participation in the tender procedure.
15.2. Any such notification of alteration or withdrawal must be prepared and submitted in accordance with Article 10. The outer envelope must be marked ‘Alteration’ or ‘Withdrawal’ as appropriate.
15.3. No tender may be withdrawn in the interval between the deadline for submission of tenders referred to in Article 10.1 and the expiry of the tender validity period. Withdrawal of a tender during this interval may result in forfeiture of the tender guarantee.

16. Costs of preparing tenders
No costs incurred by the tenderer in preparing and submitting the tender are reimbursable. All such costs will be borne by the tenderer.

17. Ownership of tenders
The Central Government Authority retains ownership of all tenders received under this tender procedure. Consequently, tenderers have no right to have their tenders returned to them.

18. Joint venture or consortium
18.1. If a tenderer is a joint venture or consortium of two or more persons, the tender must be single with the object of securing a single contract, each person must sign the tender and will be jointly and severally liable for the tender and any contract. Those persons must designate one of their number to act as leader with authority to bind the joint venture or consortium. The composition of the joint venture or consortium must not be altered without the prior consent in writing of the Central Government Authority.
18.2. The tender may be signed by the representative of the joint venture or consortium only if he has been expressly so authorised in writing by the members of the joint venture or consortium, and the authorising contract, notarial act or deed must be submitted to the Central Government Authority within the 30 days following the award of the contract. All signatures to the authorising instrument must be certified in accordance with the national laws and regulations of each party comprising the joint venture or consortium together with the powers of attorney establishing, in writing, that the signatories to the tender are empowered to enter into commitments on behalf of the members of the joint venture or consortium. Each member of such joint venture or consortium must provide the proof required under Article 3.5 as if it, itself, were the tenderer.
19. **Opening of tenders**

19.1. The opening and examination of tenders is for the purpose of checking whether the tenders are complete, whether the requisite tender guarantees have been furnished, whether the documents have been properly signed and whether the tenders are generally in order.

19.2. The tenders will be opened in public session on **24th March 2009** at the Department of Contracts, Notre Dame Ravelin, Floriana by the General Contracts Committee. The committee will draw up the Summary of Tenders Received which will be published on the Notice Board at the reception of the Department of Contracts, and shall also be available for viewing on request.

19.3. At the tender opening, Envelope Number 3 (financial offer) shall not be opened. Tenders unaccompanied by a valid ORIGINAL bid-bond (Envelope 1), the necessary documentation (Envelope Number 2) and samples (to be submitted as directed in tender document as per Article 1.3 above) on the closing date and time of tender shall not be considered for the award of this contract.

Prices will be opened following the administrative and technical evaluation, dealing with the acceptability or otherwise of the documents submitted in Envelopes Number 1 and 2.

19.4. After the public opening of the tenders, no information relating to the examination, clarification, evaluation and comparison of tenders, or recommendations concerning the award of the contract can be disclosed.

19.5. Any attempt by a tenderer to influence the evaluation committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence the Contracting Authority in its decision concerning the award of the contract will result in the immediate rejection of his tender.

19.6. All tenders received after the deadline for submission specified in the contract notice or these instructions will be kept by the Central Government Authority. The associated guarantees may be returned to the tenderers on request. No liability can be accepted for late delivery of tenders. **Late tenders will be rejected and will not be evaluated.**

20. **Evaluation of tenders**

20.1. Examination of the administrative conformity of tenders

Any minimum qualifications required as per Article 3.6 are to be evaluated at this stage.

The aim at this stage is to check that tenders comply with the essential requirements of the tender dossier. A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them.

Substantial departures or restrictions are those which affect the scope, quality or execution of the contract, differ widely from the terms of the tender dossier, limit the rights of the Central Government Authority or the tenderer’s obligations under the contract or distort competition for tenderers whose tenders do comply. Decisions to the effect that a tender is not technically compliant must be duly justified in the evaluation report.

If a tender does not comply with the tender dossier, it will be rejected immediately and may not subsequently be made to comply by correcting it or withdrawing the departure or restriction.

20.2. Technical evaluation

After analysing the tenders deemed to comply in administrative terms, the evaluation committee will rule on the technical admissibility of each tender, classifying it as technically compliant or non-compliant.

Where contracts include after-sales service and/or training, the technical quality of such services may also be evaluated.
20.3. To facilitate the examination, evaluation and comparison of tenders, the evaluation committee may ask each tenderer individually for clarification of his tender, including breakdown of prices, in which case the prior approval of the General Contracts Committee will be necessary. The request for clarification and the response must be in writing only (including by electronic means, where permitted), but no change in the price or substance of the tender may be sought, offered or permitted except as required to confirm the correction of arithmetical errors discovered during the evaluation of tenders pursuant to this Article. Decisions to the effect that a tender is not technically compliant must be duly justified in the evaluation report.

20.4. Financial evaluation

Only the Envelopes (Number 3) of those tenders who qualify after the first /second stage of the adjudication will actually be opened, and the relevant prices scheduled and published. The result of the technical evaluation (second envelope) will be given publicity on the notice board of the Department of Contracts.

In the case of tenders whose award criteria is the MEAT, upon completion of the technical evaluation, the financial offers for tenders which were not eliminated during the technical evaluation i.e. those which have met all minimum requirements specified in the technical annex will be opened.

a) Tenders found to be technically compliant shall be checked for any arithmetical errors in computation and summation. Errors will be corrected by the evaluation committee as follows:

- where there is a discrepancy between amounts in figures and in words, the amount in words will be the amount taken into account;
- except for lump-sum contracts, where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will be the price taken into account.

b) The tenderer concerned will be notified of such proposed correction and given the opportunity to accept the correction of the error. If the tenderer does not accept them, his tender will be rejected.

20.5. Variant solutions

If the invitation to tender provides for variants to be submitted, the technical specifications and evaluation grid must specify the subject, limits and basic conditions applicable. Should the tenderer wish to submit variant technical proposals, he may do so.

Variant solutions must include all the details necessary for their full evaluation, including the proposed drawings, design calculations, technical specifications, price schedule and methods. Any variant solution must comprise:

(a) an individual tender for the variant solution;
(b) the drawings and specifications for the variant solution;
(c) a technical note on the design of the variant solution and, where appropriate, drawings and calculations;

The rates and prices inserted in the bill of quantities must correspond to the conditions laid down in the tender documents. For lump-sum contracts, he must include an itemised breakdown of the overall price for the variant solution.

Bids for the variant solution will only be considered if no compliant bids for the preferred variant, Variant A, are submitted.

20.6. Award criteria

The Most Economically Advantageous Tender (MEAT) is established by weighing technical quality against price on an 90/10 basis respectively.

The quality of each technical offer will be evaluated in accordance with the award criteria and the associated weighting as detailed in the evaluation grid of this tender dossier. No other award criteria will be used. The award criteria will be examined in accordance with the requirements as indicated in the Technical Specifications.

The evaluation of the technical offers will follow the procedures set out in the Public Contracts Regulations of 2005 (LN 177 of 2005)
21. Signature of the contract and performance guarantee

21.1. Before the period of validity of tenders expires, the Central Government Authority will notify the successful tenderer in writing that its tender has been successful as well as simultaneously in writing inform the unsuccessful tenderers. The recommended tenderer’s name shall be published by the Department of Contracts every Wednesday and Friday. Bidders can obtain this information by polling fax number 21.226156.

The notification to the successful tenderer implies that the validity of its tender is extended for a period of 60 days from the date of notification of award of the contract. Unless there is challenge of the award decision by any of the unsuccessful tenderers within 10 calendar days from the date of notification, the Central Government Authority will send the contract to the tenderer for signature.

21.2. Within 15 calendar days of receipt of the contract already signed by the Central Government Authority, the selected tenderer must sign and date the contract and return it, with the performance guarantee, to the Central Government Authority. On signing the contract, the successful tenderer will become the Contractor and the contract will enter into force.

21.3. If he fails to sign and return the contract and the performance guarantee within 15 calendar days after receipt of notification, the Central Government Authority may consider the acceptance of the tender to be cancelled without prejudice to the Central Government Authority’s right to seize the guarantee, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the Central Government Authority.

21.4 The performance guarantee referred to in the General Conditions is set at 10% of the amount of the contract and must be presented in the form specified in the annex to the tender dossier. It will be released within 30 calendar days of the issue of the final acceptance certificate by the Contracting Authority, except for the proportion assigned to after-sales service.

21.5 The Central Government Authority reserves the right, at the time of contracting, to vary the quantities of the supplies. The quantity of the supplies may not rise or fall as a result of the variation by more than 25% of the total quantity. The unit prices used in the tender shall be applicable to the quantities procured under the variation. This variation must be approved by the General Contracts Committee.

22. Tender guarantee (Bid Bond) (Applicable only for tenders above the EU thresholds)

The tender guarantee referred to in Article 11.1 above is set at €50,000.00 (Fifty Thousand) and must be an original and valid guarantee presented in the form specified in the annex to the tender dossier. The guarantee must be issued by a local Maltese Bank or a Financial Institution licensed by a recognized Financial Regulator in the country where the company is located and who assumes responsibility for claims and payments to the amount as stated above. It must remain valid up to and including the 21st August 2009. The tender guarantee must be drawn up in the name of the Director General of the Department of Contracts, Notre Dame Ravelin, Floriana, VLT 2000, Malta.

The tender guarantee (Bid Bond) is intended as a pledge that the tenderer will not retract his offer up to the expiry date of the guarantee and, if successful, that he will enter into a contract with the Director General of Contracts on the terms and conditions stated in the tender dossier.

Hence, the guarantee shall be forfeited if the tenderer withdraws his tender before the above-mentioned validity date or if the tenderer fails to provide the Performance Guarantee.

Tender guarantees provided by tenderers who have not been selected shall be released within 30 calendar days from the signing of the contract/Letter of Acceptance. The tender guarantee of the successful tenderer shall be released on the signing of the contract/Letter of Acceptance, and on submission of a valid performance guarantee.

Offers that are not accompanied with the mandatory Tender Guarantee (Bid Bond) by the Closing Date and Time of the tender will be automatically disqualified.
23. **Confidentiality**

The entire evaluation procedure is confidential. The Evaluation Committee’s decisions are collective and its deliberations are held in closed session. The members of the Evaluation Committee are bound to secrecy.

The evaluation reports and written records, in particular, are for official use only and may be communicated neither to the tenderers nor to any party other than the Central Government Authority, the Commission, the European Anti-Fraud Office and the European Court of Auditors.

24. **Ethics clauses**

24.1 Any attempt by a candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the committee or the Central Government Authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of his candidacy or tender and may result in administrative penalties.

24.2 Without the Central Government Authority's prior written authorisation, a Contractor and his staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or subcontracting basis, supply other services, carry out works or supply equipment for the project. This prohibition also applies to any other projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor.

24.3 When putting forward a candidacy or tender, the candidate or tenderer shall declare that he is affected by no potential conflict of interest and has no particular link with other tenderers or parties involved in the project. Should such a situation arise during performance of the contract, the Contractor must immediately inform the Contracting Authority.

24.4 The Contractor must at all times act impartially and as a faithful adviser in accordance with the code of conduct of his profession. He shall refrain from making public statements about the project or services without the Contracting Authority’s prior approval. He may not commit the Central Government Authority in any way without its prior written consent.

24.5 For the duration of the contract the Contractor and his staff shall respect human rights and undertake not to offend the political, cultural and religious mores of the beneficiary state.

24.6 The Contractor may accept no payment connected with the contract other than that provided for therein. The Contractor and his staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Central Government Authority.

24.7 The Contractor and his staff shall be obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Contractor shall be confidential.

24.8 The contract shall govern the Contracting Parties’ use of all reports and documents drawn up, received or presented by them during the execution of the contract.

24.9 The Contractor shall refrain from any relationship likely to compromise his independence or that of his staff. If the Contractor ceases to be independent, the Central Government Authority may, regardless of injury, terminate the contract without further notice and without the Contractor having any claim to compensation.

24.10 The Director of Contracts reserves the right to take all appropriate measures to remedy the situation/suspend or cancel the project if corrupt practices of any kind are discovered at any stage of the award process or during the implementation of a contract. For the purposes of this provision, “corrupt practices” are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for
performing or refraining from any act relating to the award of a contract or implementation of a contract already concluded with the Central Government Authority.

24.11 All tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses.

24.12 Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

24.13 The Contractor undertakes to supply the Central Government Authority on request with all supporting documents relating to the conditions of the contract's execution. The Central Government Authority may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in cases of suspected unusual commercial expenses.

24.14 Contractors found to have paid unusual commercial expenses on projects funded by the Community are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving Community funds.

25. **Cancellation of the tender procedure**

In the event of a tender procedure's cancellation, tenderers will be notified by the Central Government Authority. If the tender procedure is cancelled before the outer envelope of any tender has been opened, the sealed envelopes will be returned, unopened, to the tenderers.

Cancellation may occur where:

- the tender procedure has been unsuccessful, namely where no tenders or no suitable tenders have been submitted;
- the economic or technical parameters of the project have been fundamentally altered;
- exceptional circumstances or force majeure render normal performance of the project impossible;
- there have been irregularities in the procedure, in particular where these have prevented fair competition;
- all technically compliant tenders exceed the financial resources available.

In no circumstances will the Central Government Authority be liable for damages, whatever their nature (in particular damages for loss of profits) or relationship to the cancellation of a tender, even if the Central Government Authority has been advised of the possibility of damages. The publication of a contract notice does not commit the Central Government Authority to implement the programme or project announced.

26. **Gender Equality**

In carrying out his/her obligations in pursuance of this contract, the tenderer shall ensure the application of the principle of gender equality and shall thus 'inter alia' refrain from discriminating on the grounds of gender, marital status or family responsibilities. Tenderers are to ensure that these principles are manifest in the organigram of the company where the principles aforementioned, including the selection criteria for access to all jobs or posts, at all levels of the occupation hierarchy are amply proven. In this document words importing one gender shall also include the other gender.
27. **Data Protection**

The information collected during this tender procedure shall be processed in accordance to the Data Protection Act 2001. The information collected throughout this procedure is confidential and intended solely for the use of the Department of Contracts and will not be disclosed or copied without your consent to anyone outside the Department unless the law permits us to.

28. **Part XII – Separate Packages in Tender Offer**

(1) Contracting authorities listed in Schedule 1 shall ensure that for all tenders awarded by the open or restricted procedures with an estimated value of over €600,000 or, at the discretion of the Director of Contracts, on tenders of a lower estimated value or on tenders awarded through the negotiated or competitive dialogue procedures, the tender conditions stipulate that tenders shall only qualify for consideration if they are submitted in separate packages as follows:

(a) Package One: an original and valid tender bond (Bid Bond), duly executed in the form, for the amount and for the validity period stipulated in the official tender document;

(b) Package Two: technical specifications including supportive literature, details, designs, samples and any other matter as requested in the tender documents; and

(c) Package Three: completed price schedules and, or bills of quantities, form of tender, payment terms or other financial arrangements; any covering letter which may provide other pertinent details of a commercial nature.

(2) In the process of adjudicating the tender, the packages for all tenderers shall be opened in public and in the sequence enumerated in the subregulation (1). When at any stage, any tenderer fails to comply with the tendering procedural requirements and, or with the specifications, the remaining packages in his tender offer are to be discarded unopened: Provided that the Director of Contracts or, with his authorization, any contracting authority, shall have the right to seek clarifications on points of a technical nature to enable a proper evaluation of any tender, which, however, would at that stage have already been declared to be basically compliant.

(3) Any decision leading to the discarding of any tender during any stage of the process is to be given publicity at the office of the contracting authority or at the Department of Contracts as the case may be and the affected tenderer is to be informed of the decision within two working days of its publication.

(4) A complaint by the affected tenderer and any person having or having had an interest in obtaining a particular public contract must reach the Department of Contracts or the contracting authority involved, as the case may be, within four working days from the date of notification of the decision and such complaint shall be accompanied by a deposit of 0.5% of the estimated tender value, which deposit shall only be refundable if the Appeals Board finds in the tenderer’s or other person having or having had an interest in obtaining a particular public contract’s favour: Provided that the deposit shall in no case be less than €580 or more than €58,000.

(5) The review is to be effected by the public contracts Appeals Board before the next stage of the adjudication process is commenced.

(6) The procedure to be followed by the Board when carrying out the review shall consist in a complete and detailed re-examination of the reasons brought forward by the adjudication board of any department or contracting authority for the discarding of any particular tender.

(7) In fulfilling this obligation the Chairman of the Appeals Board shall have the right to put appropriate questions to the Head of any department or contracting authority as well as the members of the B 2811 respective adjudication boards and to have recourse to all pertinent documentation.

(8) The Chairman of the Appeals Board shall also have the right to seek expert advice from outside the department or contracting authority involved.
The decision of the Board shall be final and binding on all parties and the award procedure shall proceed in accordance with its decision.

Any tenderer or any other person having or having had an interest in obtaining a particular public contract whose complaint under this Part is not upheld shall not have the right to have recourse to the procedure for appeals as provided for in Part XIII:

Provided that the right of appeal under Part XIII shall be available to those tenderers whose offer reaches the final stage of the award procedure, that is, the opening and the publication of the financial proposals:

Provided further that any rights granted to tenderers by virtue of regulation 84(19) shall also apply to appeals decided by the Appeals Board under this Part.

29. Part XIII – Procedure for Submission of Appeals

(1) Any tenderer who feels aggrieved by a proposed award of a contract and any person having or having had an interest in obtaining a particular public supply, public service or public works contract and who has been or risks being harmed by an alleged infringement may, within ten calendar days of the publication of the decision, file a notice of objection at the Department of Contracts or the contracting authority involved as the case may be. Such a notice of objection shall only be valid if accompanied by a deposit equivalent to one per cent of the estimated tender value, provided that in no case shall the deposit be less than €450 or more than €58,000. The Head of a contracting authority shall immediately notify the Director that an objection had been filed with his authority thereby immediately suspending the award procedure.

The Department of contracts or the contracting authority involved, as the case may be, shall be precluded from concluding the contract during the period of ten calendar days allowed for the submission of appeals. The award process shall be completely suspended if an appeal is eventually submitted.

(2) The procedure to be followed in submitting and determining complaints as well as the conditions under which such complaints may be filed shall be the following:

(a) Any decision by the General Contracts Committee (or a Special Contracts Committee) and by a contracting authority, shall be made public at the Department of Contracts or at the office of the contracting authority prior to the award of the contract.

(b) The notice of objection duly filed in accordance with sub-regulation (1) shall be made public by not later than the next working day following its filing.

(c) Within three working days of the expiry of the ten-day period allowed for the filing of a notice of objection, any other tenderer and any person having or having had an interest involved in the call for tenders may register an interest in the proceedings. The registration of interest shall only be valid if accompanied by a deposit amounting to the deposit paid under sub-regulation (1). The tenderer who had been indicated in the adjudication decision of the Director or the contracting authority as the one to whom the contract was to be awarded, shall be deemed to have registered an interest but does not need to pay a deposit.

(d) The names of the tenderers or other person having or having had an interest in obtaining a particular public contract who register an interest shall be made public on the first working day after the lapse of the time limit specified in paragraph (c).

(e) (i) Within three working days after the publication of the list of persons who register an interest, the tenderer filing the notice of objection shall send a reasoned letter of objection explaining the objection.

(ii) The letter of objection and any accompanying documentation shall be submitted in a number of copies that equals the number of tenderers with a registered interest, plus three.

(iii) The letter of objection shall be made public and shall be circulated to all persons with a registered interest.

(f) (i) Within five working days from the publication of the letter of objection, any tenderer who had registered an interest may send a reasoned reply to the letter of objection.

(ii) The reply and any accompanying documentation shall be submitted in a number of copies that equals the number of tenderers with a registered interest, plus three.

(iii) The reply shall be made public and shall be circulated to all tenderers with a registered interest and to all tenderers who have filed an objection.
(g) Within ten working days of the publication of the replies the Director or the Head of the contracting authority shall prepare a report (the Analysis Report) analysing the letter of objection and the replies thereto. This report shall be circulated to the persons who file an objection and who have a registered interest. After the preparatory process is duly completed, the Head of the contracting authority shall forward to the Director of Contracts all documentation pertaining to the call for tenders in question including files, tenders submitted, copies of deposit receipts, any motivated letter, analysis report, etc.

(h) The Director shall forward all the documentation related to any appeal case to the Chairman of the Appeals Board who shall then proceed as stipulated in Part XIV.

(i) The Director or the Head of the contracting authority shall publish a copy of the decision of the Appeals Board at his department or at the premises of the relevant contracting authority, as the case may be. Copies of the decision shall be forwarded to the complaining tenderer, any persons who had registered or had an implied interest and, by the Director only, to the contracting authority concerned when this is one listed in Schedule 2.

(3) Complaints in terms of this Part may only be submitted in respect of public contracts awarded by Authorities listed in Schedule 1 whose value exceeds €47,000.
B. DRAFT CONTRACT AND SPECIAL CONDITIONS, INCLUDING ANNEXES
DRAFT CONTRACT

Department of Contracts
Notre Dame Ravelin
Floriana
VLT2000
MALTA (“The Central Government Authority”),

obo

The Armed Forces of Malta
Luqa Barracks
Luqa
MALTA
(“The Contracting Authority”)

and

<Name of Contractor> (acronym) (“the Contractor”) of the other part,

have agreed as follows:


Identification number CT2427/2008

Article 1 Subject

1.1 The subject of the contract shall be the manufacture, delivery, commissioning, after-sales service and training at the place of build with transfer costs to Malta paid by 20 December 2010 DDU by the Contractor, of the following supplies:

This tender will provide the procurement of a one (1) fixed-wing maritime patrol aircraft for maritime surveillance purposes in 1 lot at the place of build, VAT exempt and with all transport costs to Malta covered by the tenderer.

Tenderers [are] authorised to tender for one (1) fixed-wing maritime patrol aircraft for maritime surveillance proposes and with the option of procuring another fixed-wing MPA for maritime surveillance purposes with the same specifications subject to the availability of funds from the European Borders Fund project for year 2010.

1.2 The Contractor shall comply strictly with the terms of the Special Conditions and the technical annex.

1.3 The supplies which form the subject of the contract must be accompanied by a service and support package and a training package as specified in the Technical Annex.
1.4 The place of acceptance of the supplies shall be the place of build, the time limits for delivery shall be December 2010 and the Incoterm applicable shall be DDU. The delivery period shall run from the date of the signature of the contract by both Parties to 31 December 2010.

Article 2 Origin

The supplies may originate in a Member State of the European Union or any other country as stipulated in Article 68 of the Public Contracts Regulations. A certificate of origin for the supplies must be provided by the Contractor at the latest when he requests provisional acceptance of the supplies. Failure to comply with this condition may result in the termination of the contract.

The origin of the goods shall be determined according to the Community Customs Code or the international agreements to which the country concerned is a signatory.

Article 3 Price

3.1 The price of the supplies shall be that shown on the financial offer (specimen in Annex III).

3.2 The price referred to in Article 3.1 above shall be the sole remuneration owed by the Contracting Authority to the Contractor under the contract. It shall be firm and shall not be subject to revision.

3.3 Payments shall be made in accordance with the General and/or Special Conditions (Articles 26 to 28).

3.4 The contract shall include all duties and taxes (levy/eco contribution) if any. Contracted prices shall be Exclusive of VAT.

3.5 The contract value is €__________________________

Article 4 Order of precedence of contract documents

The contract is made up of the following documents, in order of precedence:

- the contract agreement;
- the Special Conditions, including the technical annex (Annex II: Technical specifications - Part 1);
- the Contractor’s tender, including annexes (Annex II: Technical specifications - Part 2);
- the budget breakdown (Annex III);
- the General Conditions (Annex I);
- All relevant clarifications raised during the tendering process;
- other provisions of the tender dossier.

The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

Article 5 Communications

Any written communication relating to this Contract between the Central Government Authority, the Contracting Authority and/or the Project Manager, on the one hand, and the Contractor on the other must state the Contract title and identification number, and must be sent by post, fax, e-mail or by hand according to article 4 of the Special Conditions.
Contracts shall be done in English in three originals, one original being for the Central Government Authority, one original for the Contracting Authority, and one original being for the Contractor.

<table>
<thead>
<tr>
<th>For the Contractor</th>
<th>For the Central Government Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>Name:</td>
</tr>
<tr>
<td>Position:</td>
<td>Position:</td>
</tr>
<tr>
<td>Signature:</td>
<td>Signature:</td>
</tr>
<tr>
<td>Date:</td>
<td>Date:</td>
</tr>
</tbody>
</table>
SPECIAL CONDITIONS

CONTENTS

These conditions amplify and supplement, if necessary, the General Conditions governing the contract. Unless the Special Conditions provide otherwise, those General Conditions remain fully applicable. The numbering of the Articles of the Special Conditions is not consecutive but follows the numbering of the Articles of the General Conditions. In exceptional cases, and with the authorisation of the Central Government Authority, other clauses may be introduced to cover specific situations.

ARTICLE 2 LAW APPLICABLE...............................................................
ARTICLE 4 COMMUNICATIONS...........................................................
ARTICLE 7 SUPPLY OF DOCUMENTS..............................................
ARTICLE 8 ASSISTANCE WITH LOCAL REGULATIONS..................
ARTICLE 9 THE CONTRACTOR'S OBLIGATIONS.............................
ARTICLE 10 ORIGIN........................................................................
ARTICLE 11 PERFORMANCE GUARANTEE.................................
ARTICLE 12 INSURANCE.................................................................
ARTICLE 13 PERFORMANCE PROGRAMME (TIMETABLE)...........
ARTICLE 14 CONTRACTOR'S DRAWINGS.................................
ARTICLE 15 TENDER PRICES.........................................................
ARTICLE 17 PATENTS AND LICENCES...........................................
ARTICLE 18 COMMENCEMENT ORDER........................................
ARTICLE 19 PERIOD OF EXECUTION............................................
ARTICLE 22 VARIATIONS...............................................................
ARTICLE 24 QUALITY OF SUPPLIES...........................................
ARTICLE 25 INSPECTION AND TESTING...............................
ARTICLE 26 METHODS OF PAYMENT........................................
ARTICLE 28 DELAYED PAYMENTS................................................
ARTICLE 29 DELIVERY.................................................................
ARTICLE 31 PROVISIONAL ACCEPTANCE..............................
ARTICLE 32 WARRANTY.................................................................
ARTICLE 33 AFTER-SALES SERVICE........................................
ARTICLE 35 BREACH OF CONTRACT...........................................
ARTICLE 41 DISPUTE SETTLEMENT BY LITIGATION................
ARTICLE 44 CHECKS AND AUDITS BY COMMUNITY BODIES
Article 2  Law applicable
2.1 The laws of Malta shall apply in all matters not covered by the provisions of the contract.
2.2 The language used shall be English.

Article 4  Communications
As per general conditions

Article 7  Supply of documents
As per general conditions

Article 8  Assistance with local regulations
As per general conditions

Article 10  Origin
Supplies may originate in a Member State of the European Union or any other country as stipulated in Article 68 of the Public Contracts Regulations. The origin of the goods shall be determined according to the Community Customs Code or the international agreements to which the country concerned is a signatory.

When submitting his tender, the tenderer must state expressly that all the goods meet the requirements concerning origin and must state the respective countries of origin. He may be asked to provide additional information in this connection.

Article 11  Performance guarantee

11.1 The Contractor shall, within 15 days of receipt of the notification of the award of contract, furnish the Central Government Authority with a guarantee for the full and proper performance of the contract. The amount of the guarantee shall be 10% of the amount of the contract price, including any amounts stipulated in addenda to the contract.

11.3 The performance guarantee shall be in the format given in Annex IV and shall be provided in the form of a bank guarantee.

Article 12  Insurance
The Contractor will provide insurance cover for the shipping/transfer to Malta of all deliverables.

Article 13  Performance programme (timetable)
Performance programme must not exceed 31 December 2010

Article 14  Contractor’s drawings
As per Technical Annex

Article 15  Tender prices
As per general conditions
Article 16 Tax and customs arrangements

16.2 For supplies to be imported into the country of the Contracting Authority, all duties and taxes applicable to their importation, excluding VAT shall be included in the price.

Article 24 Quality of supplies

All supplies must be certified by a Recognised Classification Society which is a member of the International Association of Classification Societies.

Article 26 Methods of payment

26.1 Payments shall be made in Euro.

Main terms of financing and payment:

- 30% Advance Payment upon signature of contract.
- 60% Interim Payment upon Provisional Acceptance
- 10% Final Payment upon Final Acceptance

26.9 Price revision

Vide Article 26.9 of the General Conditions.

Article 28 Delayed payments

28.1 As per general conditions

28.2 Once the deadline laid down in Article 28.1 has expired:

the Contractor may, within two months of late payment, claim late-payment interest:

- at the rediscount rate applied by the issuing institution of the country of the Contracting Authority.
- on the first day of the month in which the deadline expired, plus seven percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline (exclusive) and the date on which the Contracting Authority's account is debited (inclusive).

Article 29 Delivery

29.1 The Contractor shall bear all risks relating to the goods until provisional acceptance at destination. The supplies shall be packaged so as to prevent their damage or deterioration in transit to their destination.

Article 31 Provisional acceptance

At the place of build of the aircraft prior to handing over to the Armed Forces of Malta.

Article 32 Warranty

This warranty shall remain valid for a minimum of two years after provisional acceptance.

Article 33 After-sales service

33.1 The contractor shall provide and secure the provision of reliable and regular after-sales for the period and in the manner as laid out in the Technical Specification.

Article 35 Breach of contract

35.3 Without prejudice to the Government’s right to dissolve ‘ipso jure’ the contract in the case of infringement of any condition thereunder and apart from the deduction established for delay in delivery, any such infringement shall render the contractor, in each case, the contractor will be liable to pay damages up to a maximum of 100% of the contract value (including the performance guarantee). The amount of damages payable will be determined in due course should the eventuality arise.
Article 41 Dispute settlement by litigation

Any dispute between the Parties that may arise during the performance of this contract and that has not been possible to settle otherwise between the Parties shall be submitted to the arbitration of the Malta Arbitration Centre in accordance with the Arbitration Act (Chapter 387) of the Laws of Malta.


Article 44 Checks and audits by Community bodies

As per general conditions
## ANNEX I: GENERAL CONDITIONS FOR SUPPLY CONTRACTS

### SUMMARY

**PRELIMINARY PROVISIONS**

<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Definitions</td>
<td>26</td>
</tr>
<tr>
<td>2</td>
<td>Law and language of the contract</td>
<td>26</td>
</tr>
<tr>
<td>3</td>
<td>Order of precedence of contract documents</td>
<td>26</td>
</tr>
<tr>
<td>4</td>
<td>Communications</td>
<td>27</td>
</tr>
<tr>
<td>5</td>
<td>Assignment</td>
<td>27</td>
</tr>
<tr>
<td>6</td>
<td>Subcontracting</td>
<td>27</td>
</tr>
</tbody>
</table>

**OBLIGATIONS OF THE CONTRACTING AUTHORITY**

<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Supply of documents</td>
<td>29</td>
</tr>
<tr>
<td>8</td>
<td>Assistance with local regulations</td>
<td>29</td>
</tr>
</tbody>
</table>

**OBLIGATIONS OF THE CONTRACTOR**

<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>General Obligations</td>
<td>29</td>
</tr>
<tr>
<td>10</td>
<td>Origin</td>
<td>30</td>
</tr>
<tr>
<td>11</td>
<td>Performance guarantee</td>
<td>30</td>
</tr>
<tr>
<td>12</td>
<td>Insurance</td>
<td>31</td>
</tr>
<tr>
<td>13</td>
<td>Performance programme</td>
<td>31</td>
</tr>
<tr>
<td>14</td>
<td>Contractor's drawings</td>
<td>31</td>
</tr>
<tr>
<td>15</td>
<td>Sufficiency of tender prices</td>
<td>32</td>
</tr>
<tr>
<td>16</td>
<td>Tax and customs arrangements</td>
<td>32</td>
</tr>
<tr>
<td>17</td>
<td>Patents and licences</td>
<td>32</td>
</tr>
</tbody>
</table>

**COMMENCEMENT OF EXECUTION AND DELAYS**

<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>18</td>
<td>Commencement order</td>
<td>33</td>
</tr>
<tr>
<td>19</td>
<td>Period of execution of tasks</td>
<td>33</td>
</tr>
<tr>
<td>20</td>
<td>Extension of period of execution</td>
<td>33</td>
</tr>
<tr>
<td>21</td>
<td>Delays in execution</td>
<td>33</td>
</tr>
<tr>
<td>22</td>
<td>Variations</td>
<td>34</td>
</tr>
<tr>
<td>23</td>
<td>Suspension</td>
<td>35</td>
</tr>
</tbody>
</table>

**MATERIALS AND WORKMANSHIP**

<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>24</td>
<td>Quality of supplies</td>
<td>36</td>
</tr>
<tr>
<td>25</td>
<td>Inspection and testing</td>
<td>37</td>
</tr>
</tbody>
</table>

**PAYMENTS**

<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>26</td>
<td>General principles</td>
<td>38</td>
</tr>
<tr>
<td>27</td>
<td>Payment to third parties</td>
<td>39</td>
</tr>
<tr>
<td>28</td>
<td>Delayed payments</td>
<td>39</td>
</tr>
</tbody>
</table>

**ACCEPTANCE AND MAINTENANCE**

<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>29</td>
<td>Delivery</td>
<td>40</td>
</tr>
<tr>
<td>30</td>
<td>Verification operations</td>
<td>40</td>
</tr>
<tr>
<td>31</td>
<td>Provisional acceptance</td>
<td>41</td>
</tr>
</tbody>
</table>
Article 1 Definitions

1.1 The headings and titles in these General Conditions shall not be taken as part thereof or be taken into consideration in the interpretation of the contract.

1.2 Where the context so permits, words in the singular shall be deemed to include the plural and vice versa, and words in the masculine shall be deemed to include the feminine and vice versa.

1.3 Words designating persons or parties shall include firms and companies and any organisation having legal capacity.

Article 2 Law and language of the contract

2.1 The Special Conditions shall specify the law governing all matters not covered by the contract.

2.2 The contract and all written communications between the parties will be drafted in the language of the procedure.

Article 3 Order of precedence of contract documents

3.1 Save where otherwise provided in the special conditions, the contract is made up of the following documents, in order of precedence:

a) the contract agreement;

b) the Special Conditions with the Technical Annex;

c) the Contractor’s tender, including annexes;

d) the financial bid (Annex III);

e) the General Conditions (Annex I);

f) [the minutes of the information meeting/site visit];

Addenda have the order of precedence of the document they are modifying.
3.2. The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

Article 4 Communications

4.1 Communications between the Contracting Authority, the Central Government Authority and/or the Project Manager on the one hand, and the Contractor on the other, shall be exclusively in writing. Unless otherwise specified in the Special Conditions, communications between the Contracting Authority, the Central Government Authority and/or the Project Manager on the one hand, and the Contractor on the other hand, shall be sent by post, cable, telex, fax transmission, or delivered by hand, to the addresses designated by the Parties for that purpose.

4.2 If the person sending a communication requires acknowledgement of receipt, he shall indicate this in his communication. Whenever there is a deadline for the receipt of a written communication, the sender should ask for an acknowledgement of receipt of his communication. In any event, the sender shall take all necessary measures to ensure receipt of his communication.

4.3 Wherever the contract provides for the giving or issue of any notice, consent, approval, certificate or decision, unless otherwise specified such notice, consent, approval, certificate or decision shall be in writing and the words “notify”, “certify”, “approve” or “decide” shall be construed accordingly. Any such consent, approval, certificate or decision shall not unreasonably be withheld or delayed.

Article 5 Assignment

5.1 An assignment shall be valid only if it is a written agreement by which the Contractor transfers his contract or part thereof to a third party.

5.2 The Contractor may not, without the prior written consent of the Central Government Authority, assign the contract or any part thereof, or any benefit or interest thereunder, except in the following cases:

   a) a charge, in favour of the Contractor's bankers, of any monies due or to become due under the contract; or
   b) the assignment to the Contractor's insurers of the Contractor's right to obtain relief against any other person liable in cases where the insurers have discharged the Contractor's loss or liability.

5.3 For the purpose of Article 5.2, the approval of an assignment by the Central Government Authority shall not relieve the Contractor of his obligations for the part of the contract already performed or the part not assigned.

5.4 If the Contractor has assigned his contract without authorisation, the Central Government Authority may, without giving formal notice thereof, apply as of right the sanctions for breach of contract provided for in Article 35.

5.5 Assignees must satisfy the eligibility criteria applicable for the award of the contract.

Article 6 Subcontracting

6.1 A subcontract shall be valid only if it is a written agreement by which the Contractor entrusts performance of a part of his contract to a third party.

6.2 The Contractor shall not subcontract without the prior written authorisation of the Contracting Authority. The Contracting Authority shall seek the written approval of the Central Government Authority before sanctioning subcontracting. The elements of the contract to be subcontracted and the identity of the subcontractors shall be notified to the Contracting Authority. The Contracting Authority shall notify the Contractor of its decision within 30 days of receiving the notification, stating its reasons if authorisation is withheld.
6.3 Subcontractors must satisfy the eligibility criteria applicable for the award of the contract.

6.4 The Central Government Authority and the Contracting Authority recognise no contractual link between themselves and the subcontractors.

6.5 The Contractor shall be responsible for the acts, defaults and negligence of his subcontractors and their agents or employees, as if they were the acts, defaults or negligence of the Contractor, his agents or employees. The approval by the Contracting Authority of the subcontracting of any part of the contract or of the subcontractor shall not relieve the Contractor of any of his obligations under the contract.

6.6 If a subcontractor has undertaken any continuing obligation extending for a period exceeding that of the warranty period under the contract towards the Contractor in respect of the supplies provided by the subcontractor, the Contractor must, at any time after the expiration of the warranty period, transfer immediately to the Contracting Authority, at the Contracting Authority’s request and cost, the benefit of such obligation for the unexpired duration thereof.

6.7 If the Contractor enters into a subcontract without approval, the Contracting Authority may, with the approval of the Central Government Authority and without giving formal notice thereof, apply as of right the sanctions for breach of contract provided for in Article 35.
OBLIGATIONS OF THE CONTRACTING AUTHORITY

Article 7  Supply of documents

7.1 If necessary, within 30 days of the signing of the contract, the Project Manager shall, where necessary, provide the Contractor, free of charge, with a copy of the drawings prepared for the performance of the contract and a copy of the specifications and other contract documents. The Contractor may purchase additional copies of these drawings, specifications and other documents, in so far as they are available. Upon the issue of the warranty certificate, or upon final acceptance, the Contractor shall return to the Project Manager all drawings, specifications and other contract documents.

7.2 Unless it is necessary for the purposes of the contract, the drawings, specifications and other documents provided by the Project Manager shall not be used or communicated to a third party by the Contractor without the prior consent of the Project Manager.

7.3 The Project Manager shall have authority to issue to the Contractor administrative orders incorporating such supplementary documents and instructions as are necessary for the proper execution of the contract and the remedying of any defects therein.

7.4 The special conditions must indicate the procedure used, if necessary, by the Contracting Authority and the Project Manager to approve drawings and other documents provided by the Contractor.

Article 8  Assistance with local regulations

8.1 The Contractor may request the assistance of the Contracting Authority in obtaining copies of laws, regulations and information on local customs, orders or bye-laws of the country where the supplies are to be delivered which may affect the Contractor in the performance of his obligations under the contract. The Contracting Authority may provide the assistance requested to the Contractor at the Contractor's cost.

8.2 If necessary, the Contractor shall duly notify the Contracting Authority of details of the supplies so that the Contracting Authority can obtain the requisite permits or import licences.

8.3 If necessary, the Contracting Authority will undertake to obtain, in accordance with the Special Conditions, the requisite permits or import licences within a reasonable period, taking account of the performance dates for the contract.

8.4 Subject to the provisions of the laws and regulations on foreign labour of the states in which the supplies are to be delivered, the Contracting Authority shall make every effort to help the Contractor obtain all the visas and permits required for the personnel whose services the Contractor and the Contracting Authority consider necessary and residence permits for their families.

OBLIGATIONS OF THE CONTRACTOR

Article 9  General Obligations

9.1 The Contractor shall perform the contract with due care and diligence including, where specified, the design, manufacture, delivery to site, erecting, testing and commissioning of the supplies and carrying out of any other work including the remedying of any defects in the supplies. The Contractor shall also provide all necessary equipment, supervision, labour and facilities required for the performance of the contract.

9.2 The Contractor shall comply with administrative orders given by the Project Manager. Where the Contractor considers that the requirement of an administrative order goes beyond the scope of the contract, he shall, on pain of breach of contract, notify the Project Manager thereof, giving his reasons, within 30 days of receipt of the order. Execution of the administrative order shall not be suspended because of this notice.

9.3 The Contractor shall respect and abide by all laws and regulations in force in the state of the Contracting Authority and shall ensure that his personnel, their dependants, and his local employees also respect and abide by all such laws and regulations. The Contractor shall indemnify the Central Government Authority and the Contracting Authority against any claims and proceedings arising from
any infringement by the Contractor, his employees and their dependants of such laws and regulations.

9.4 The Contractor shall treat all documents and information received in connection with the contract as private and confidential. He shall not, save in so far as may be necessary for the purposes of the contract's execution, publish or disclose any particulars of the contract without the prior consent in writing of the Contracting Authority or the Project Manager. If any disagreement arises as to the necessity for any publication or disclosure for the purpose of the contract, the decision of the Central Government Authority shall be final.

9.5 If the Contractor is a joint venture or consortium of two or more persons, all such persons shall be jointly and severally bound to fulfill the terms of the contract according to the law of the state of the Contracting Authority and shall, at the request of the Contracting Authority, designate one of such persons to act as leader with authority to bind the joint venture or consortium. The composition of the joint venture or consortium shall not be altered without the prior consent in writing of the Central Government Authority.

9.6 Save where the European Commission requests or agrees otherwise, the Contractor shall take the necessary measures to ensure the visibility of the European Union financing or co-financing. These measures must comply with the rules laid down and published by the Commission on the visibility of external operations.

Article 10 Origin

10.1 Save where otherwise provided for in the Special Conditions, supplies must originate in a Member State of the European Union or in one of the beneficiary countries as stated in the invitation to tender. The origin of the goods shall be determined according to the rules laid down in the Community Customs Code or the international agreements to which the country concerned is a signatory.

10.2 The Contractor must certify that the goods tendered comply with this requirement, specifying their respective countries of origin. He may be required to provide more detailed information in this respect.

10.3 The Contractor shall present an official certificate of origin on provisional acceptance. Failure to comply with this obligation shall lead, after formal notice, to termination of the contract.

Article 11 Performance guarantee

11.1 The Contractor shall, within 30 days of receipt of the notification of the award of contract, furnish the Central Government Authority with a guarantee for the full and proper performance of the contract. The amount of the guarantee shall be specified in the Special Conditions. It shall not exceed 10% of the amount of the contract price, including any amounts stipulated in addenda to the contract.

11.2 The performance guarantee shall be held against payment to the Central Government Authority for any loss resulting from the Contractor's failure to perform his contractual obligations fully and properly.

11.3 The performance guarantee shall be in the format given in Annex IV and may be provided in the form of a bank guarantee, a banker's draft, a certified cheque, a bond provided by an insurance and/or bonding company or an irrevocable letter of credit. If the performance guarantee is to be provided in the form of a bank guarantee, a banker's draft, a certified cheque or a bond, it shall be issued by a bank or insurance and/or bonding company in accordance with the eligibility criteria applicable for the award of the contract.

11.4 The performance guarantee shall be denominated in the currency in which the contract is payable. No payments shall be made in favour of the Contractor prior to the provision of the guarantee. The guarantee shall continue to remain valid until the contract has been fully and properly performed.

11.5 During the performance of the contract, if the natural or legal person providing the guarantee is not able to abide by his commitments, the guarantee shall cease to be valid. The Central Government Authority shall give formal notice to the Contractor to provide a new guarantee on the same terms as the previous one. Should the Contractor fail to provide a new guarantee, the Central Government Authority may terminate the contract. Before so doing, the Central Government Authority shall send a registered letter with acknowledgement of receipt, which shall set a new deadline of no less than 15 days from the day of delivery of the letter.

11.6 The Central Government Authority shall demand payment from the guarantee of all sums for which the
guarantor is liable under the guarantee due to the Contractor’s default under the contract, in accordance with the terms of the guarantee and up to the value thereof. The guarantor shall, without delay, pay those sums upon demand from the Central Government Authority and may not raise any objection for any reason whatsoever. Before making any claim under the performance guarantee, the Central Government Authority shall notify the Contractor stating the nature of the default in respect of which the claim is to be made.

11.7 Except for such part as may be specified in the Special Conditions in respect of after-sales service, the performance guarantee shall be released within 30 days of the issue of the final acceptance certificate.

Article 12 Insurance

12.1 An insurance policy may be required to cover the carriage of supplies; the conditions of this insurance policy may be specified in Article 12 of the Special Conditions, which may also specify other types of insurance to be taken out by the Contractor.

12.2 Notwithstanding the Contractor's insurance obligations under Article 12.1, the Contractor shall bear sole liability for, and indemnify the Central Government Authority, the Contracting Authority and the Project Manager against, any claims by third parties for damage to property or personal injuries arising from the execution of the contract by the Contractor, his subcontractors and their employees.

Article 13 Performance programme

13.1 If the Special Conditions so require, the Contractor shall submit a programme of performance of the contract for the approval of the Project Manager. The programme shall contain at least the following:

a) the order in which the Contractor proposes to perform the contract including design, manufacture, delivery to place of receipt, installation, testing and commissioning;

b) the deadlines for submission and approval of the drawings;

c) a general description of the methods which the Contractor proposes to adopt for executing the contract; and

d) such further details and information as the Project Manager may reasonably require.

13.2 The Special Conditions shall specify the time limit within which the programme of performance must be submitted to the Project Manager for approval. They may set time limits within which the Contractor must submit all or part of the detailed drawings, documents and items. They shall also state the deadline for the Project Manager's approval or acceptance of the programme of performance, detailed drawings, documents and items. The approval of the programme by the Project Manager shall not relieve the Contractor of any of his obligations under the contract.

13.3 No material alteration to the programme shall be made without the approval of the Project Manager. If, however, the progress of the performance of the contract does not conform to the programme, the Project Manager may instruct the Contractor to revise the programme and submit the revised programme to him for approval.

Article 14 Contractor’s drawings

14.1 If the Special Conditions so provide, the Contractor shall submit to the Project Manager for approval:

a) the drawings, documents, samples and/or models, according to the time limits and procedures laid down in the Special Conditions;

b) such drawings as the Project Manager may reasonably require for the performance of the contract.

14.2 If the Project Manager fails to notify his decision of approval referred to in Article 14.1 within the deadlines referred to in the contract or the approved programme of performance, such drawings, documents, samples or models shall be deemed to be approved on expiry of the deadlines. If no deadline is specified, they shall be deemed to be approved 30 days after receipt.

14.3 Approved drawings, documents, samples and models shall be signed or otherwise identified by the Project Manager and may only be departed from on the Project Manager’s instructions. Any of the Contractor’s drawings, documents, samples or models which the Project Manager fails to approve shall immediately be modified to meet the requirements of the Project Manager and resubmitted by the Contractor for approval.
14.4 The Contractor shall supply additional copies of approved drawings in the form and numbers stated in the contract or in subsequent administrative orders.

14.5 The approval of the drawings, documents, samples or models by the Project Manager shall not relieve the Contractor from any of his obligations under the contract.

14.6 The Project Manager shall have the right to inspect all drawings, documents, samples or models relating to the contract at the Contractor's premises at all reasonable times.

14.7 Before provisional acceptance of the supplies, the Contractor shall supply operation and maintenance manuals together with drawings, which shall be in such detail as will enable the Project Manager to operate, maintain, adjust and repair all parts of the supplies. Unless otherwise stated in the Special Conditions, the manuals and drawings shall be in the language of the contract and in such forms and numbers as stated in the contract. The supplies shall not be considered completed for the purpose of provisional acceptance until such manuals and drawings have been supplied to the Contracting Authority.

Article 15 Sufficiency of tender prices

15.1 Subject to any provisions which may be laid down in the Special Conditions, the Contractor shall be deemed to have satisfied himself before submitting his tender as to the correctness and sufficiency of the tender and to have taken account of all that is required for the full and proper performance of the contract and to have included in his rates and prices all costs related to the supplies, in particular:

a) the costs of transport;

b) the costs of handling, packing, loading, unloading, transit, delivery, unpacking, checking, insurance and other administrative costs in connection with the supplies. The packaging shall be the property of the Contracting Authority unless otherwise provided in the Special Conditions;

c) the cost of documents relating to the supplies where such documents are required by the Contracting Authority;

d) performance and supervision of on-site assembly and/or commissioning of the delivered supplies;

e) furnishing of tools required for assembly and/or maintenance of the delivered supplies;

f) furnishing of detailed operation and maintenance manuals for each unit of the delivered supplies, as specified in the contract;

g) supervision or maintenance and/or repair of the supplies, for a period of time stated in the contract, with the stipulation that this service shall not release the Contractor from any warranty obligations under the contract;

h) training of the Contracting Authority's personnel, at the Contractor's factory and/or elsewhere as specified in the contract.

15.2 Since the Contractor is deemed to have determined his prices on the basis of his own calculations, operations and estimates, he shall, at no additional charge, carry out any work that is the subject of any item in his tender for which he indicates neither a unit price nor a lump sum.

Article 16 Tax and customs arrangements

16.1 For supplies manufactured locally, all internal fiscal charges applicable to their manufacture shall be excluded from the price.

16.2 For supplies to be imported into the country of the Contracting Authority, all duties and taxes applicable to their importation, including VAT shall be excluded from the price.

16.3 Whatever the origin of the supplies, the contract shall be exempt from stamp and registration duties.

Article 17 Patents and licences

Save where otherwise provided in the Special Conditions, the Contractor shall indemnify the Central Government Authority, the Contracting Authority and the Project Manager against any claim resulting from the use as specified in the contract of patents, licences, drawings, models, or brand or trade marks, unless such infringement results from compliance with the design or specification provided by the Contracting Authority and/or the Project Manager.
Article 18  Commencement order
18.1 The Contracting Authority shall fix the date on which performance of the contract is to commence and advise the Contractor thereof either in the notice of award of the contract or by administrative order issued by the Project Manager.
18.2 Save where the Parties agree otherwise, performance of the contract shall begin no later than 90 days after notification of award of contract. After that date the Contractor shall be entitled not to perform the contract and to obtain its termination or compensation for the damage he has suffered. The Contractor shall forfeit this right unless he exercises it within 30 days of the expiry of the 90-day period.

Article 19  Period of execution of tasks
19.1 The period of execution of tasks shall commence on the date fixed in accordance with Article 18 and shall be as stated in the contract, without prejudice to extensions of the period which may be granted under Article 20.
19.2 If provision is made for separate periods of performance for separate lots, such periods shall not be aggregated in cases where one Contractor is allocated more than one lot.

Article 20  Extension of period of execution
20.1 The Contractor may request an extension to the period of execution if his performance of the contract is delayed, or expected to be delayed, for any of the following reasons:
   a) extra or additional supplies ordered by the Contracting Authority;
   b) exceptional weather conditions in the country of the Contracting Authority which may affect installation or erection of the supplies;
   c) physical obstructions or conditions which may affect delivery of the supplies, which could not reasonably have been foreseen by a competent contractor;
   d) administrative orders affecting the date of completion other than those arising from the Contractor's default;
   e) failure of the Contracting Authority to fulfil its obligations under the contract;
   f) any suspension of the delivery and/or installation of the supplies which is not due to the Contractor's default;
   g) force majeure;
   h) any other causes referred to in these General Conditions which are not due to the Contractor's default.
20.2 Within 15 days of realising that a delay might occur, the Contractor shall notify the Project Manager of his intention to make a request for extension of the period of performance to which he considers himself entitled and, save where otherwise agreed between the Contractor and the Project Manager, within 30 days provide the Project Manager with comprehensive details so that the request can be examined.
20.3 Within 30 days the Project Manager shall, by written notice to the Contractor after due consultation with the Contracting Authority and, where appropriate, the Contractor, and after having obtained written approval from the Central Government Authority, grant such extension of the period of performance as may be justified, either prospectively or retrospectively, or inform the Contractor that he is not entitled to an extension.

Article 21  Delays in execution
21.1 If the Contractor fails under his own responsibility to deliver any or all of the goods or perform the
services within the time limit(s) specified in the contract, the Contracting Authority shall, without
formal notice and without prejudice to its other remedies under the contract, be entitled, for every day
which shall elapse between the expiry of the contractual period and the actual date of completion, to
liquidated damages equal to 5/1000 of the value of the undelivered supplies to a maximum of 15% of
the total value of the contract.

21.2 If the non-delivery of any of the goods prevents the normal use of the supplies as a whole, the
liquidated damages provided for in paragraph 21.1 shall be calculated on the basis of the total
contract value.

21.3 If the Contracting Authority has become entitled to claim at least 15% of the contract value it may,
after giving written notice to the Contractor after having obtained the prior approval of the Central
Government Authority:
- seize the performance guarantee;
- terminate the contract, in which case the Contractor will have no right to compensation; and
- enter into a contract with a third party for the provision of the balance of the supplies. The
Contractor shall not be paid for this part of the contract. The Contractor shall also be liable
for the additional costs and damages caused by his failure.

21.4 Besides the penalties for delay envisaged in these conditions and without prejudice
to all his other liabilities arising out of the contract, the contractor shall also become liable to a penalty
if the rate of progress of the work throughout the contract period is not satisfactory. The contractor
shall be considered to be in default if he fails to carry out every month at least 70% of the estimated monthly
average progress. For the purpose of assessing such average progress the value of the contract shall
be divided by the number of months stipulated in the contract period. Within each month the
contractor should complete works whose value is equivalent to the average progress obtained as above.
However, in the case of contracts having a completion period of 6 or more months, no penalty shall be
imposed in respect of the first month from the date of allocation of the contract. Should the contractor’s
progress fall below the minimum percentage progress, he will become liable to a penalty equivalent
to 2% of the value of the contract in respect of every month during which progress is below standard. If
the contractor completes the whole contract within the stipulated period, the Government may
consider the refund of any penalties the contractor may have incurred for slow monthly progress.

Article 22 Variations

22.1 Subject to the limits set in the Special Conditions the Contracting Authority reserves the right, with
the approval of the Central Government Authority, to vary the quantities. The total value of the
supplies may not rise or fall as a result of the variation in the quantities by more than 25% of the
contract price. The unit prices used in the tender shall be applicable to the quantities procured under
the variation.

22.2 The Project Manager shall have the power to order any variation, with the prior approval of the
Central Government Authority, to any part of the supplies necessary for the proper completion
and/or functioning of the supplies. Such variations may include additions, omissions, substitutions,
changes in quality, quantity, form, character, kind, as well as drawings, designs or specifications
where the supplies are to be specifically manufactured for the Contracting Authority, method of
shipment or packing, place of delivery, and in the specified sequence, method or timing of execution
of the supplies. No order for a variation may result in the invalidation of the contract, but the financial
effect of any such variation shall be valued in accordance with Article 22.6.

22.3 No variation shall be made except by administrative order, subject to the following provisos:

a) if, for whatever reason, the Project Manager believes it necessary to give an order orally, he
shall confirm the order by an administrative order as soon as possible;

b) if the Contractor confirms in writing an oral order given for the purpose of Article 22.3.a and
the confirmation is not contradicted in writing forthwith by the Project Manager, an
administrative order shall be deemed to have been issued for the variation;

c) an administrative order for a variation shall not be required when increasing or decreasing
the quantity of any work because the estimates in the bill of quantities or budget breakdown
were too high or too low.

22.4 Save where Article 22.2 provides otherwise, prior to issuing an administrative order for a variation,
the Project Manager shall notify the Contractor of the nature and form of that variation. As soon as
possible, after receiving such notice, the Contractor shall submit to the Project Manager a proposal
containing:
- a description of the tasks, if any, to be performed or the measures to be taken and a performance programme;
- any necessary modifications to the performance programme or to any of the Contractor’s obligations under the contract;
- any adjustment to the contract price in accordance with the rules set out in Article 22.

22.5 Following the receipt of the Contractor’s submission referred to in Article 22.4, the Project Manager shall, after due consultation with the Central Government Authority and, where appropriate, the Contractor, decide as soon as possible whether or not the variation should be carried out. If the Project Manager decides that the variation is to be carried out, he shall issue an administrative order stating that the variation is to be made at the prices and under the conditions given in the Contractor’s submission referred to in Article 22.4 or as modified by the Project Manager in accordance with Article 22.6.

22.6 The prices for all variations ordered by the Project Manager in accordance with Articles 22.3 and 22.5 shall be ascertained by the Project Manager in accordance with the following principles:
- where the task is of similar character and executed under similar conditions to an item priced in the bill of quantities or budget breakdown, it shall be valued at such rates and prices contained therein;
- where the task is not of similar character or is not executed under similar conditions, the rates and prices in the contract shall be used as the basis for valuation in so far as is reasonable, failing which a fair valuation shall be made by the Project Manager;
- if the nature or amount of any variation relative to the nature or amount of the whole of the contract or to any part thereof is such that, in the opinion of the Project Manager, any rate or price contained in the contract for any item of work is by reason of such variation rendered unreasonable, then the Project Manager shall fix such rate or price as he thinks reasonable and proper in the circumstances;
- where a variation is necessitated by a default or breach of contract by the Contractor, any additional cost attributable to such variation shall be borne by the Contractor.

22.7 On receipt of the administrative order requesting the variation, the Contractor shall proceed to carry out the variation and be bound by that order in so doing as if such variation were stated in the contract. The supplies shall not be delayed pending the granting of any extension of time for completion or adjustment to the contract price. Where the order for a variation precedes the adjustment to the contract price, the Contractor shall keep records of the costs of undertaking the variation and of the time expended thereon. Such records shall be open to inspection by the Project Manager at all reasonable times.

22.8 Contractual variations not covered by an administrative order must be formalised through an addendum to the contract signed by all parties. Changes of address or bank account may simply be notified in writing by the Contractor to the Contracting Authority and the Central Government Authority. Any contractual variations must respect the general principles defined in the Public Contracts Regulations 2005.

Article 23 Suspension

23.1 The Project Manager may, by administrative order and with the prior approval of the Central Government Authority, at any time, instruct the Contractor to suspend:
   a) the manufacture of the supplies; or
   b) the delivery of supplies to the place of acceptance at the time specified for delivery in the performance programme or, if no time specified, at the time appropriate for it to be delivered; or
   c) the installation of the supplies which have been delivered to the place of acceptance.

23.2 The Contractor shall, during suspension, protect and secure the supplies affected at the Contractor’s warehouse or elsewhere, against any deterioration, loss or damage to the extent possible and as instructed by the Project Manager, even if supplies have been delivered to the place of acceptance in accordance with the contract but their installation has been suspended by the Project Manager.

23.3 Additional expenses incurred in connection with such protective measure shall be added to the
contract price. The Contractor shall not be paid any additional expenses if the suspension is:

a) dealt with differently in the contract; or
b) necessary by reason of normal climatic conditions at the place of acceptance; or
c) necessary owing to some default of the Contractor; or
d) necessary for the safety or the proper execution of the contract or any part thereof insofar as such necessity does not arise from any act or default by the Project Manager or the Contracting Authority.

23.4 The Contractor shall not be entitled to such additions to the contract price unless he notifies the Project Manager, within 30 days of receiving the order to suspend progress of delivery, of his intention to make a claim for them.

23.5 The Project Manager, after consultation with the Contracting Authority and the Contractor and with the approval of the Central Government Authority, shall determine such extra payment and/or extension of the period of performance to be made to the Contractor in respect of such claim as shall, in the opinion of the Project Manager, be fair and reasonable.

23.6 If the period of suspension exceeds 180 days, and the suspension is not due to the Contractor's default, the Contractor may, by notice to the Project Manager, request to proceed with the supplies within 30 days, or terminate the contract.

23.7 Where the award procedure or performance of the contract is vitiated by substantial errors or irregularities or by fraud, the Contracting Authority shall, with the approval of Central Government Authority, suspend performance of the contract. Where such errors, irregularities or fraud are attributable to the Contractor, the Contracting Authority may also refuse to make payments or may recover monies already paid, in proportion to the seriousness of the errors, irregularities or fraud.

The purpose of suspending the contract shall be to verify whether presumed substantial errors and irregularities or fraud have actually occurred. If they are not confirmed, performance of the contract shall resume as soon as possible. A substantial error or irregularity shall be any infringement of a contract or regulatory provision resulting from an act or an omission that causes or might cause a loss to the Community budget.

MATERIALS AND WORKMANSHIP

Article 24 Quality of supplies

24.1 The supplies must in all respects satisfy the technical specifications laid down in the contract and conform in all respects to the drawings, surveys, models, samples, patterns and other requirements in the contract, which must be held at the disposal of the Contracting Authority or the Project Manager for the purposes of identification throughout the period of performance.

24.2 Any preliminary technical acceptance stipulated in the Special Conditions should be the subject of a request sent by the Contractor to the Project Manager. The request shall specify the materials, items and samples submitted for such acceptance according to the contract and indicate the lot number and the place where acceptance is to take place, as appropriate. The materials, items and samples specified in the request must be certified by the Project Manager as meeting the requirements for such acceptance prior to their incorporation in the supplies.

24.3 Even if materials or items to be incorporated in the supplies or in the manufacture of components to be supplied have been technically accepted in this way, they may still be rejected if a further examination reveals defects or faults, in which case they must immediately be replaced by the Contractor. The Contractor may be given the opportunity to repair and make good materials and items which have been rejected, but such materials and items will be accepted for incorporation in the supplies only if they have been repaired and made good to the satisfaction of the Project Manager.
**Article 25 Inspection and testing**

**25.1** The Contractor shall ensure that the supplies are delivered to the place of acceptance in time to allow the Project Manager to proceed with acceptance of the supplies. The Contractor is deemed to have fully appreciated the difficulties which he might encounter in this respect, and he shall not be permitted to advance any grounds for delay.

**25.2** The Project Manager shall be entitled, from time to time, to inspect, examine, measure and test the components, materials and workmanship, and check the progress of preparation, fabrication or manufacture of anything being prepared, fabricated or manufactured for delivery under the contract, in order to establish whether the components, materials and workmanship are of the requisite quality and quantity. This shall take place at the place of manufacture, fabrication, preparation or at the place of acceptance or at such other places as may be specified in the Special Conditions.

**25.3** For the purposes of such tests and inspections, the Contractor shall:

a) provide the Project Manager, temporarily and free of charge, with such assistance, test samples or parts, machines, equipment, tools, labour, materials, drawings and production data as are normally required for inspection and testing;

b) agree, with the Project Manager, the time and place for tests;

c) give the Project Manager access at all reasonable times to the place where the tests are to be carried out.

**25.4** If the Project Manager is not present on the date agreed for tests, the Contractor may, unless otherwise instructed by the Project Manager, proceed with the tests, which shall be deemed to have been made in the Project Manager's presence. The Contractor shall immediately send duly certified copies of the test results to the Project Manager, who shall, if he has not attended the test, be bound by the test results.

**25.5** When components and materials have passed the above-mentioned tests, the Project Manager shall notify the Contractor or endorse the Contractor's certificate to that effect.

**25.6** If the Project Manager and the Contractor disagree on the test results, each shall state his views to the other within 15 days of such disagreement. The Project Manager or the Contractor may require such tests to be repeated on the same terms and conditions or, if either Party so requests, by an expert selected by common consent. All test reports shall be submitted to the Project Manager, who shall communicate the results of these tests without delay to the Contractor. The results of retesting shall be conclusive. The cost of retesting shall be borne by the Party whose views are proved wrong by the retesting.

**25.7** In the performance of their duties, the Project Manager and any person authorised by him shall not disclose to unauthorised persons information concerning the undertaking's methods of manufacture and operation obtained through inspection and testing.
PAYMENTS

Article 26  General principles

26.1 Payments shall be made in euro or national currency. The Special Conditions shall lay down the administrative or technical conditions governing payments of pre-financing, interim and/or final payments made in accordance with the General Conditions.

26.2 Payments due by the Contracting Authority shall be made to the bank account mentioned on the financial identification form completed by the Contractor. The same form, annexed to the payment request, must be used to report changes of bank account.

26.3 Sums due shall be paid within no more than 30 calendar days from the date on which an admissible payment request is registered by the competent department specified in the Special Conditions. The date of payment shall be the date on which the institution's account is debited. The payment request shall not be admissible if one or more essential requirements are not met.

26.4 The 30 day period may be suspended by notifying the Contractor that the payment request cannot be fulfilled because the sum is not due, because appropriate substantiating documents have not been provided or because there is evidence that the expenditure might not be eligible. In the latter case, an inspection may be carried out on the spot for the purpose of further checks. The Contractor shall provide clarifications, modifications or further information within 30 days of being asked to do so. The payment period shall continue to run from the date on which a properly drawn-up payment request is registered.

26.5 The payments shall be made as follows:

   a) 30% Advance Payment upon signature of contract.
   b) 60% Interim Payment upon Provisional Acceptance
   c) 10% Final Payment upon Final Acceptance

26.6 Where only part of the supplies have been delivered, the 10% payment due following provisional acceptance shall be calculated on the value of the supplies which have actually been accepted and the security shall be released accordingly.

26.7 For supplies not covered by a warranty period, the payments listed above shall be aggregated. The conditions to which the payments of pre-financing, interim and/or final payments are subject, shall be as stated in the Special Conditions.

26.8 The payment obligations of the EC under this Contract shall cease at most 18 months after the end of the period of execution of the tasks, unless the Contract is terminated in accordance with these General Conditions.

26.9 Unless otherwise stipulated in the Special Conditions, contracts shall be at fixed prices, which shall not be revised.

26.10 The Contractor undertakes to repay any amounts paid in excess of the final amount due to the Contracting Authority within 45 days of receiving a request to do so. Should the Contractor fail to make repayment within the deadline set by the Contracting Authority, the Contracting Authority may (unless the Contractor is a government department or public body of a Member State of the Community) increase the amounts due by adding interest:

   [Transition Funds, Structural & Cohesion Funds, Malta Funds]
   - at the rediscount rate applied by the central bank of the country of the Contracting Authority if payments are in the currency of that country;
   - at the rate applied by the European Central Bank to its main refinancing transactions in euro where payments are in euro,
on the first day of the month in which the time-limit expired, plus three and a half percentage points. The default interest shall be incurred over the time which elapses between the date of the payment deadline set by the Contracting Authority (exclusive), and the date on which payment is actually made (inclusive). Any partial payments shall first cover the interest thus established.

Amounts to be repaid to the Contracting Authority may be offset against amounts of any kind due to the Contractor. This shall not affect the Parties’ right to agree on payment in instalments. Bank charges incurred by the repayment of amounts due to the Contracting Authority shall be borne entirely by the Contractor.

Article 27  Payment to third parties

27.1 Orders for payments to third parties may be carried out only after an assignment made in accordance with Article 5. The Contracting Authority shall be notified of the assignment.

27.2 Notification of beneficiaries of the assignment shall be the sole responsibility of the Contractor.

27.3 In the event of a legally binding attachment of the property of the Contractor affecting payments due to him under the contract, and without prejudice to the time limit laid down in the Special Conditions, the Contracting Authority shall have 30 days, starting from the day on which it receives notification of the definitive lifting of the obstacle to payment, to resume payments to the Contractor.

Article 28  Delayed payments

28.1 The Contracting Authority shall pay the Contractor sums due within 30 days of the date on which an admissible payment is registered, in accordance with Article 26 of these General Conditions. This period shall begin to run from the approval of these documents by the competent department referred to in Article 26.1 of the Special Conditions. These documents shall be approved either expressly or tacitly, in the absence of any written reaction in the 30 days following their receipt accompanied by the requisite documents.

28.2 Once the deadline laid down in Article 28.1 has expired, the Contractor may, within two months of late payment, claim late-payment interest:

- at the rediscount rate applied by the issuing institution of the country of the Contracting Authority where payments are in national currency;
- at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, where payments are in euro,

on the first day of the month in which the deadline expired, plus seven percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline (exclusive) and the date on which the Contracting Authority's account is debited (inclusive).

28.3 Any default in payment of more than 90 days from the expiry of the period laid down in Article 28.1 shall entitle the Contractor either not to perform the contract or to terminate it, with 30 days’ prior notice to the Contracting Authority, the Central Government Authority and the Project Manager.
Article 29  Delivery

29.1 The Contractor shall deliver the supplies in accordance with the conditions of the contract. The supplies shall be at the risk of the Contractor until their provisional acceptance.

29.2 The Contractor shall provide such packaging of supplies as is required to prevent their damage or deterioration in transit to their destination as indicated in the contract. The packaging shall be sufficient to withstand, without limitation, rough handling, exposure to extreme temperatures, salt and precipitation during transit and open storage. Package size and weight shall take into consideration, where appropriate, the remoteness of the final destination of the supplies, and the possible absence of heavy handling facilities at all points in transit.

29.3 The packaging, marking and documentation inside and outside the packages shall comply with such requirements as shall be expressly provided for in the Special Conditions, subject to any variations subsequently ordered by the Project Manager.

29.4 No supplies shall be shipped or delivered to the place of acceptance until the Contractor has received a delivery order from the Project Manager. The Contractor shall be responsible for the delivery at the place of acceptance of all supplies and supplier's equipment required for the purpose of the contract. If the Project Manager fails either to issue the certificate of provisional acceptance or to reject the Contractor's application within the period of 30 days, he shall be deemed to have issued the certificate on the last day of that period.

29.5 Each delivery must be accompanied by a statement drawn up by the Contractor. This statement shall be as specified in the Special Conditions.

29.6 Each package shall be clearly marked in accordance with the Special Conditions.

29.7 Delivery shall be deemed to have been made when there is written evidence available to both Parties that delivery of the supplies has taken place in accordance with the terms of the contract, and the invoice(s) and all such other documentation specified in the Special Conditions, have been submitted to the Contracting Authority. Where the supplies are delivered to an establishment of the Contracting Authority, the latter shall bear the responsibility of bailee, in accordance with the requirements of the law applicable to the contract, during the time which elapses between delivery for storage and acceptance.

Article 30  Verification operations

30.1 The supplies shall not be accepted until the prescribed verifications and tests have been carried out at the expense of the Contractor. The inspections and tests may be conducted before shipment, at the point of delivery and/or at the final destination of the goods.

30.2 The Project Manager shall, during the progress of the delivery of the supplies and before the supplies are taken over, have the power to order or decide:
   a) the removal from the place of acceptance, within such time or times as may be specified in the order, of any supplies which, in the opinion of the Project Manager, are not in accordance with the contract;
   b) their replacement with proper and suitable supplies;
   c) the removal and proper re-installation, notwithstanding any previous test thereof or interim payment thereof, of any installation which in respect of materials, workmanship or design for which the Contractor is responsible, is not, in the opinion of the Project Manager, in accordance with the contract;
   d) that any work done or goods supplied or materials used by the Contractor is or are not in accordance with the contract, or that the supplies or any portion thereof do not fulfil the requirements of the contract.

30.3 The Contractor shall, with all speed and at his own expense, make good the defects so specified. If the Contractor does not comply with such order, the Contracting Authority shall be entitled to employ other persons to carry out the orders and all expenses consequent thereon or incidental thereto shall
be deducted by the Contracting Authority from any monies due or which may become due to the Contractor.

30.4 Supplies which are not of the required quality shall be rejected. A special mark may be applied to the rejected supplies. This shall not be such as to alter them or affect their commercial value. Rejected supplies shall be removed by the Contractor from the place of acceptance, if the Project Manager so requires, within a period which the Project Manager shall specify, failing which they shall be removed as of right at the expense and risk of the Contractor. Any works incorporating rejected materials shall be rejected.

30.5 The provisions of Article 30 shall not affect the right of the Contracting Authority to claim under Article 21, nor shall it in any way release the Contractor from any warranty or other obligations under the contract.

Article 31 Provisional acceptance

31.1 The supplies shall be taken over by the Contracting Authority when they have been delivered in accordance with the contract, have satisfactorily passed the required tests, or have been commissioned as the case may be, and a certificate of provisional acceptance has been issued or is deemed to have been issued.

31.2 The Contractor may apply, by notice to the Project Manager, for a certificate of provisional acceptance when supplies are ready for provisional acceptance. The Project Manager shall within 30 days of receipt of the Contractor's application either:
- issue the certificate of provisional acceptance to the Contractor with a copy to the Central Government Authority stating, where appropriate, his reservations, and, inter alia, the date on which, in his opinion, the supplies were completed in accordance with the contract and ready for provisional acceptance; or
- reject the application, giving his reasons and specifying the action which, in his opinion, is required of the Contractor for the certificate to be issued.

31.3 Should exceptional circumstances make it impossible to proceed with the acceptance of the supplies during the period fixed for provisional or final acceptance, a statement certifying such impossibility shall be drawn up by the Project Manager after consultation, where possible, with the Contractor. The certificate of acceptance or rejection shall be drawn up within 30 days following the date on which such impossibility ceases to exist. The Contractor shall not invoke these circumstances in order to avoid the obligation of presenting the supplies in a state suitable for acceptance.

31.4 If the Project Manager fails either to issue the certificate of provisional acceptance or to reject the supplies within the period of 30 days, he shall be deemed to have issued the certificate on the last day of that period, except where the certificate of provisional acceptance is deemed to constitute a certificate of final acceptance. In this case, Article 34.2 below does not apply. If the supplies are divided by the contract into lots, the Contractor shall be entitled to apply for a separate certificate for each lot.

31.5 In case of partial delivery, the Contracting Authority reserves the right to give partial provisional acceptance.

31.6 Upon provisional acceptance of the supplies, the Contractor shall dismantle and remove temporary structures and materials no longer required for use in connection with the performance of the contract. He shall also remove any litter or obstruction and redress any change in the condition of the place of acceptance as required by the contract.

Article 32 Warranty obligations

32.1 The Contractor shall warrant that the supplies are new, unused, of the most recent models and incorporate all recent improvements in design and materials, unless otherwise provided in the contract. The Contractor shall further warrant that all supplies shall have no defect arising from design, materials or workmanship, except insofar as the design or materials are required by the specifications, or from any act or omission, that may develop under use of the supplies in the conditions obtaining in the country of the Contracting Authority. This warranty shall remain valid as specified in the Special Conditions.

32.2 The Contractor shall be responsible for making good any defect in, or damage to, any part of the supplies which may appear or occur during the warranty period and which:
a) results from the use of defective materials, faulty workmanship or design of the Contractor; or

b) results from any act or omission of the Contractor during the warranty period; or

c) appears in the course of an inspection made by, or on behalf of, the Contracting Authority.

32.3 The Contractor shall at his own cost make good the defect or damage as soon as practicable. The warranty period for all items replaced or repaired shall recommence from the date on which the replacement or repair was made to the satisfaction of the Project Manager. If the contract provides for partial acceptance, the warranty period shall be extended only for the part of the supplies affected by the replacement or repair.

32.4 If any such defect appears or such damage occurs during the warranty period, the Contracting Authority or the Project Manager shall notify the Contractor. If the Contractor fails to remedy a defect or damage within the time limit stipulated in the notification, the Contracting Authority may, with the approval of the Central Government Authority:

a) remedy the defect or the damage itself, or employ someone else to carry out the work at the Contractor's risk and cost, in which case the costs incurred by the Contracting Authority shall be deducted from monies due to or guarantees held against the Contractor or from both; or

b) terminate the contract.

32.5 In emergencies, where the Contractor cannot be reached immediately or, having been reached, is unable to take the measures required, the Contracting Authority or the Project Manager may have the work carried out at the expense of the Contractor. The Contracting Authority or the Project Manager shall as soon as practicable inform the Contractor of the action taken.

32.6 The maintenance obligations shall be stipulated in the Special Conditions and technical specifications. If the duration of the warranty period is not specified, it shall be 365 days. The warranty period shall commence on the date of provisional acceptance and may recommence in accordance with Article 32.3.

Article 33 After-sales service

An after-sales service, if required by the contract, shall be provided in accordance with the details stipulated in the Special Conditions. The Contractor shall undertake to carry out or have carried out the maintenance and repair of supplies and to provide a rapid supply of spare parts. The Special Conditions may specify that the Contractor must provide any or all of the following materials, notifications and documents pertaining to spare parts manufactured or distributed by the Contractor:

a) such spare parts as the Contracting Authority may choose to purchase from the Contractor, it being understood that this choice shall not release the Contractor from any warranty obligations under the contract;

b) in the event of termination of production of the spare parts, advance notification to the Contracting Authority to allow it to procure the parts required and, following such termination, provision at no cost to the Contracting Authority of the blueprints, drawings and specifications of the spare parts, if and when requested.

Article 34 Final acceptance

34.1 Upon expiry of the warranty period or, where there is more than one such period, upon expiry of the latest period, and when all defects or damage have been rectified, the Project Manager shall issue the Contractor a final acceptance certificate, with a copy to the Central Government Authority, stating the date on which the Contractor completed his obligations under the contract to the Project Manager's satisfaction. The final acceptance certificate shall be issued by the Project Manager within 30 days of the expiry of the warranty period or as soon as any repairs ordered under Article 32 have been completed to the satisfaction of the Project Manager.

34.2 The contract shall not be considered to have been performed in full until the final acceptance certificate has been signed or is deemed to have been signed by the Project Manager.

34.3 Notwithstanding the issue of the final acceptance certificate, the Contractor and the Contracting Authority shall remain liable for the fulfilment of any obligation incurred under the contract prior to the issue of the final acceptance certificate which remains unperformed at the time that final acceptance certificate is issued. The nature and extent of any such obligation shall be determined by reference to the provisions of the contract.
BREACH OF CONTRACT AND TERMINATION

Article 35 Breach of contract

35.1 A Party shall be in a breach of contract if it fails to discharge any of its obligations under the contract.

35.2 Where a breach of contract occurs, the injured Party shall be entitled to the following remedies:
   a) damages; and/or
   b) termination of the contract.

35.3 In addition to the above-mentioned measures, damages may be awarded. They may be either:
   a) general damages; or
   b) liquidated damages.

   The amount and procedures for these damages shall be laid down in the Special Conditions.

35.4 Recovery of damages, disbursements or expenses resulting from the application of measures provided for in this Article shall be effected by deduction from the sums due to the Contractor, from the deposit, or by payment under the guarantee.

Article 36 Termination by the Central Government Authority

36.1 The Central Government Authority may, after giving the Contractor seven days' notice, terminate the contract in any of the following cases:
   a) the Contractor fails to effect delivery in whole or in part, within one month from the expiration of the period stipulated in the contract without the previous permission of the Contracting Authority.
   b) the Contractor fails to comply within a reasonable time with a notice given by the Project Manager requiring him to make good any neglect or failure to perform his obligations under the contract which seriously affects the proper and timely performance of the works;
   c) the Contractor refuses or neglects to carry out administrative orders given by the Project Manager;
   d) the Contractor assigns the contract or subcontracts without the authorisation of the Contracting Authority;
   e) the Contractor is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
   f) the Contractor has been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata;
   g) the Contractor has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;
   h) the Contractor has been the subject of a judgment 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;
   i) the Contractor, following another procurement procedure or grant award procedure financed by the Community budget, has been declared to be in serious breach of contract for failure to perform its contractual obligations;
   j) any organisational modification occurs involving a change in the legal personality, nature or control of the Contractor, unless such modification is recorded in an addendum to the contract;
   k) any other legal disability hindering performance of the contract occurs;
   l) the Contractor fails to provide the required guarantee or insurance, or if the person providing the earlier guarantee or insurance required under the present contract is not able to abide by his commitments.

36.2 Termination shall be without prejudice to any other rights or powers of the Central Government
Authority, the Contracting Authority and the Contractor under the contract. The Contracting Authority may, with the approval of the Central Government Authority, thereafter, conclude any other contract with a third party on behalf of the Contractor. The Contractor's liability for delay in completion shall immediately cease upon termination without prejudice to any liability thereunder that may already have occurred.

36.3 The Project Manager shall, upon the issue of the notice of termination of the contract, instruct the Contractor to take immediate steps to bring the execution of the supplies to a close in a prompt and orderly manner and to reduce expenditure to a minimum.

36.4 In the event of termination, the Project Manager shall, as soon as possible and in the presence of the Contractor or his representatives or having duly summoned them, draw up a report on the supplies delivered and the work performed and take an inventory of the materials supplied and unused. A statement shall also be drawn up of monies due to the Contractor and of monies owed by the Contractor to the Contracting Authority as at the date of termination of the contract.

36.5 The Contracting Authority shall not be obliged to make any further payments to the Contractor until the supplies are completed, whereupon the Contracting Authority shall be entitled to recover from the Contractor the extra costs, if any, of providing the supplies or shall pay any balance due to the Contractor prior to the termination of the contract.

36.6 If the Central Government Authority, on behalf of the Contracting Authority terminates the contract, the Contracting Authority shall be entitled to recover from the Contractor any loss it has suffered under the contractual conditions set out in Article 2 of the Special Conditions.

36.7 This contract shall be automatically terminated if it has given risen to no payment in the three years following its signing.

Article 37 Termination by the Contractor

37.1 The Contractor may, after giving 14 days notice to the Central Government Authority, terminate the contract if the Contracting Authority:
- fails to pay the Contractor the amounts due under any certificate issued by the Project Manager after the expiry of the deadline stated in the Special Conditions;
- consistently fails to meet its obligations after repeated reminders; or
- suspends the delivery of the supplies, or any part thereof, for more than 180 days, for reasons not specified in the contract or not attributable to the Contractor.

37.2 Termination shall be without prejudice to any other rights or powers under the contract of the Central Government Authority, the Contracting Authority and the Contractor.

37.3 In the event of such termination, the Contracting Authority shall pay the Contractor for any loss or damage the Contractor may have suffered.

Article 38 Force majeure

38.1 Neither Party shall be considered to be in default or in breach of its obligations under the contract if the performance of such obligations is prevented by any event of force majeure arising after the date of notification of award or the date when the contract becomes effective, whichever is the earlier.

38.2 For the purposes of this Article, the term "force majeure" means acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions and any other similar unforeseeable events which are beyond the Parties' control and cannot be overcome by due diligence.

38.3 Notwithstanding the provisions of Articles 21 and 36, the Contractor shall not be liable to forfeiture of his performance guarantee, liquidated damages or termination for default if, and to the extent that, his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure. Nor, notwithstanding the provisions of Articles 28 and 37, shall the Contracting Authority be liable for the payment of interest on delayed payments, for non-performance or for termination by the Contractor for default if, and to the extent that, the Contracting Authority's delay or other failure to perform its obligations is the result of force majeure.

38.4 If either Party considers that any circumstances of force majeure have occurred which may affect performance of its obligations, it shall promptly notify the other Party and the Project Manager, giving details of the nature, the probable duration and the likely effect of the circumstances. Unless otherwise directed by the Project Manager in writing, the Contractor shall continue to perform his
obligations under the contract as far as is reasonably practicable, and shall employ every reasonable alternative means to perform any obligations that the event of force majeure does not prevent him from performing. The Contractor shall not employ such alternative means unless directed to do so by the Project Manager.

38.5 If the Contractor incurs additional costs in complying with the Project Manager's directions or using alternative means under Article 38.4, the amount thereof shall be certified by the Project Manager.

38.6 If circumstances of force majeure have occurred and continue for a period of 180 days then, notwithstanding any extension of time for completion of the contract that the Contractor may by reason thereof have been granted, either Party shall be entitled to serve the other with 30 days' notice to terminate the contract. If, on the expiry of the period of 30 days, the situation of force majeure still applies, the contract shall be terminated and, by virtue of the law governing the contract, the Parties shall be released from further performance of the contract.

Article 39  Death

39.1 Where the Contractor is a natural person, the contract shall be automatically terminated if that person dies. However, the Central Government Authority shall examine any proposal made by the heirs or beneficiaries if they have notified their wish to continue the contract. The decision of the Central Government Authority shall be notified to those concerned within 30 days of receipt of such proposal.

39.2 Where the Contractor consists of a number of natural persons and one or more of them die, a report shall be agreed between the Parties on the progress of the contract, and the Central Government Authority shall decide whether to terminate or continue the contract in accordance with the undertaking given by the survivors and by the heirs or beneficiaries, as the case may be.

39.3 In the cases provided for in Articles 39.1 and 39.2, persons offering to continue to perform the contract shall notify the Central Government Authority thereof within 15 days of the date of decease.

39.4 Such persons shall be jointly and severally liable for the proper performance of the contract to the same extent as the original Contractor. Continuation of the contract shall be subject to the rules relating to establishment of the guarantee provided for in Article 11.

DISPUTE SETTLEMENT

Article 40  Amicable dispute settlement

40.1 The Parties shall make every effort to settle amicably any dispute which may arise between them. Once a dispute has arisen, the Parties shall notify each other in writing of their positions on the dispute and any solution which they consider possible. If either Party deems it useful, the Parties shall meet and try and settle the dispute. A Party shall respond to a request for amicable settlement within 30 days of such a request. The maximum period laid down for reaching such a settlement shall be 120 days from the commencement of the procedure. Should the attempt to reach an amicable settlement fail or a Party fail to respond in time to requests for a settlement, either Party shall be free to proceed to the next stage of the dispute-settlement procedure by notifying the other.

Article 41  Dispute settlement by litigation

If no settlement is reached within 120 days of the start of the amicable dispute-settlement procedure, each Party may seek:

(a) either a ruling from a national court
(b) or an arbitration ruling

in accordance with the Special Conditions of this contract.
ETHICS CLAUSES

42.1 Any attempt by a candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the committee, the Central Government Authority or the Contracting Authority during the process of examining, clarifying, evaluating and comparing tenders shall lead to the rejection of his candidacy or tender.

42.2 Without the Contracting Authority's prior written authorisation, a Contractor and his staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or subcontracting basis, supply other services, carry out works or supply equipment for the project.

42.3 This prohibition also applies to any other programmes or projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor.

42.4 When putting forward a candidacy or tender, the candidate or tenderer shall declare that he is affected by no potential conflict of interest and has no particular link with other tenderers or parties involved in the project. Should such a situation arise during performance of the contract, the Contractor must immediately inform the Contracting Authority and the Central Government Authority.

42.5 The Contractor must at all times act impartially and as a faithful adviser in accordance with the code of conduct of his profession. He shall refrain from making public statements about the project or services without the Contracting Authority's prior approval. He may not commit the Contracting Authority in any way without its prior written consent.

42.6 For the duration of the contract the Contractor and his staff shall respect human rights and undertake not to offend the political, cultural and religious mores of the beneficiary state.

42.7 The Contractor may accept no payment connected with the contract other than that provided for therein. The Contractor and his staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.

42.8 The Contractor and his staff shall be obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Contractor shall be confidential.

42.9 The contract shall govern the Parties' use of all reports and documents drawn up, received or presented by them during the execution of the contract.

42.10 The Contractor shall refrain from any relationship likely to compromise his independence or that of his staff. If the Contractor ceases to be independent, the Contracting Authority with the approval of the Central Government Authority may, regardless of injury, terminate the contract without further notice and without the Contractor having any claim to compensation.

42.11 The Commission/Ministry of Finance reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process and if the Contracting Authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, "corrupt practices" are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or implementation of a contract already concluded with the Contracting Authority.

42.12 Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

42.13 The Contractor undertakes to supply the Contracting Authority on request with all supporting documents relating to the conditions of the contract's execution. The Central Government Authority and the Contracting Authority may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in cases of suspected unusual commercial expenses.
Article 43  Administrative and financial penalties

43.1 Without prejudice to the application of penalties laid down in the contract, a Contractor who has been guilty of making false declarations or has been found to have seriously failed to meet his contractual obligations in an earlier procurement procedure shall be excluded from all contracts for a maximum of two years from the time when the infringement is established, as confirmed after an adversarial procedure with the Contractor. The Contractor may present his arguments against this penalty within 30 days of notification of the penalty by registered letter with acknowledgement of receipt or any equivalent means. In the absence of any reaction on the part of the Contractor, or of withdrawal of the penalty by the Director of Contracts (Central Government Authority) within 30 days of receipt of the Contractor's arguments against it, the decision imposing the penalty shall become enforceable. That period may be increased to three years in the event of a repeat offence within five years of the first infringement.

43.2 If the Contractor is found to have seriously failed to meet its contractual obligations, it shall incur financial penalties representing 10% of the total value of the contract in question. That rate may be increased to 20% in the event of a repeat offence within five years of the first infringement.

Article 44  Checks and audits by Community bodies

44.1 The Contractor will allow the European Commission, the European Anti-Fraud Office and the European Court of Auditors to verify, by examining the documents or by means of on-the-spot checks, the implementation of the project and conduct a full audit, if necessary, on the basis of supporting documents for the accounts, accounting documents and any other document relevant to the financing of the project. These inspections may take place up to 7 years after the final payment.

44.2 Furthermore, the Contractor will allow the European Anti-Fraud Office to carry out checks and verification on the spot in accordance with the procedures set out in the European Community legislation for the protection of the financial interests of the European Communities against fraud and other irregularities.

44.3 To this end, the Contractor undertakes to give appropriate access to staff or agents of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors to the sites and locations at which the Contract is carried out, including its information systems, as well as all documents and databases concerning the technical and financial management of the project and to take all steps to facilitate their work. Access given to agents of the European Commission, European Anti-Fraud Office and the European Court of Auditors shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject. Documents must be easily accessible and filed so as to facilitate their examination and the Consultant must inform the Contracting Authority of their precise location.

44.4 The Contractor guarantees that the rights of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors to carry out audits, checks and verification will be equally applicable, under the same conditions and according to the same rules as those set out in this Article, to any sub-contractor or any other party benefiting from EC funds.
ANNEX II : TECHNICAL SPECIFICATIONS

Part 1 - to be specified by the Contracting Authority in the tender dossier
External Borders Fund
2007 – 2013

Enhancing the border control capabilities of the Armed Forces of Malta (AFM) – procurement of a fixed wing Maritime Patrol Aircraft (MPA).

Tender Specification
List of Tables

Table 1 - Flight Profile Table ................................................................. 56
Table 2 - Nav/Com Table ................................................................. 60
Table 3 - System Operator Console Requirements Table .................. 66
Table 4 - Surveillance Radar Requirements Table ......................... 66
Table 5 - EO/IR Requirements Table ............................................... 68
Table 6 - AIS System Requirements Table .................................... 69
## List of Figures

<table>
<thead>
<tr>
<th>Figure</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Figure 1</td>
<td>Cockpit/Cabin Compartment</td>
<td>58</td>
</tr>
<tr>
<td>Figure 2</td>
<td>Parallel Search Sample</td>
<td>60</td>
</tr>
<tr>
<td>Figure 3</td>
<td>Creeping Line Search Sample</td>
<td>61</td>
</tr>
<tr>
<td>Figure 4</td>
<td>Sector Search Sample</td>
<td>61</td>
</tr>
<tr>
<td>Figure 5</td>
<td>Cockpit Architecture</td>
<td>63</td>
</tr>
<tr>
<td>Figure 6</td>
<td>Sample Oversized Observation Window</td>
<td>64</td>
</tr>
<tr>
<td>Figure 7</td>
<td>Mission System Architecture</td>
<td>65</td>
</tr>
<tr>
<td>Figure 8</td>
<td>Internal Communication Architecture</td>
<td>71</td>
</tr>
<tr>
<td>Figure 9</td>
<td>SATCOM Architecture</td>
<td>73</td>
</tr>
</tbody>
</table>
List of Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A/C</td>
<td>Aircraft</td>
</tr>
<tr>
<td>ADF</td>
<td>Automatic Direction Finder</td>
</tr>
<tr>
<td>AFM</td>
<td>Armed Forces of Malta</td>
</tr>
<tr>
<td>AGL</td>
<td>Above Ground Level</td>
</tr>
<tr>
<td>AIS</td>
<td>Automated Identification System</td>
</tr>
<tr>
<td>CFII</td>
<td>Certified Flight Instructor Instrument</td>
</tr>
<tr>
<td>DME</td>
<td>Distance Measuring Equipment</td>
</tr>
<tr>
<td>EASA</td>
<td>European Aviation Safety Agency</td>
</tr>
<tr>
<td>EBF</td>
<td>European Border Fund</td>
</tr>
<tr>
<td>EO/IR</td>
<td>Electro-Optic/Infrared Sensor</td>
</tr>
<tr>
<td>EUMS</td>
<td>European Union Member State</td>
</tr>
<tr>
<td>FAA</td>
<td>Federal Aviation Administration</td>
</tr>
<tr>
<td>FMS</td>
<td>Flight Management System</td>
</tr>
<tr>
<td>GPS</td>
<td>Global Positioning System</td>
</tr>
<tr>
<td>GS</td>
<td>Glide Slope</td>
</tr>
<tr>
<td>IFR</td>
<td>Instrument Flight Rules</td>
</tr>
<tr>
<td>ILS</td>
<td>Instrument Landing System</td>
</tr>
<tr>
<td>ISA</td>
<td>International Standard Atmosphere</td>
</tr>
<tr>
<td>LOC</td>
<td>Localiser</td>
</tr>
<tr>
<td>MB</td>
<td>Marker Beacon</td>
</tr>
<tr>
<td>MFD</td>
<td>Multi Functional Display</td>
</tr>
<tr>
<td>MPA</td>
<td>Maritime Patrol Aircraft</td>
</tr>
<tr>
<td>PAX</td>
<td>Passengers</td>
</tr>
<tr>
<td>PFD</td>
<td>Primary Flight Display</td>
</tr>
<tr>
<td>PPL</td>
<td>Private Pilot Licence</td>
</tr>
<tr>
<td>RCU</td>
<td>Radio Control Equipment</td>
</tr>
<tr>
<td>SAR</td>
<td>Search and Rescue</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>SATCOM</td>
<td>Satellite Communication</td>
</tr>
<tr>
<td>SLR</td>
<td>Single Lens Reflex</td>
</tr>
<tr>
<td>TACAN</td>
<td>Tactical Air Navigation</td>
</tr>
<tr>
<td>TCAS</td>
<td>Traffic Collision Avoidance System</td>
</tr>
<tr>
<td>VFR</td>
<td>Visual Flight Rules</td>
</tr>
<tr>
<td>VOR</td>
<td>VHF Omni Directional Beacon</td>
</tr>
<tr>
<td>WX</td>
<td>Weather</td>
</tr>
</tbody>
</table>
AIRCRAFT SPECIFICATIONS

1. General

1.1 The objective of this tender is to enhance the border control capabilities of the Armed Forces of Malta (AFM) by the procurement of a fixed wing maritime patrol aircraft (MPA). The project will be characterized by the following capabilities:

- Procurement of a Maritime Patrol Aircraft equipped with electronic equipment for the surveillance of the maritime borders and for the exchange of real time information.
- Training of selected personnel in maintenance and operation of the maritime patrol aircraft.
- Contracting of a service and support package for the aircraft and equipment.

2. Scope

2.1 The scope of this tender covers actions to be performed by an eventual contractor, namely:

- The provision, system engineering and system architecture development, installation and commissioning of the equipment required to provide the specified capabilities.
- Monitor and oversee the various phases of the project and verify the following activities:
  - Production and acceptance of the aircraft
  - Installation and testing of the specialised equipment
  - Testing and acceptance of the complete system
  - System training
  - System implementation
- The training of AFM personnel.
- The service and support package of the system for an initial three (3) year period, including the two (2) year warranty period.

3. General Requirements

3.1 The proposals must satisfy all minimum requirements as defined in this technical specification document in order to be considered technically compliant. All requirements must be satisfied by any proposal.

3.2 Where indicated, the document may specify an Objective Requirement. Objective Requirements are the desirable target requirements for a given parameter. Proposals should attempt to fulfil Objective Requirements. During evaluation those proposals whose performance parameters approach or meet Objective Requirements will receive proportionally more weighting during evaluation. No further weighting will be awarded, however, for performance parameters that exceed the Objective Requirements.

3.3 This tender will provide the procurement of a one (1) fixed-wing MPA for maritime surveillance purposes and with the option\(^1\) of procuring another fixed-wing MPA for maritime surveillance purposes from the EBF project 2010.

\(^1\) The option will be procured subject to the availability of funds from the EBF project for year 2010.
The option being an additional MPA with the same technical specifications as published in this technical document with the provision of a variation in the training package. This training package is described in para 14.7 of this technical specification.

3.4 **The aircraft must be brand new and furnished from a current line of production (failure to meet this obligation will result in the tender being rejected. Reconditioned Aircrafts are not allowed)**

3.5 The Tenderer must provide a proven track record of the aircraft being proposed in the field of maritime surveillance. References should be forwarded with the tender document as per para 3.6 of the Instructions to Tender.

3.6 Labelling, packaging and equipment. All labelling, packaging and equipment must be in English.

3.7 The aircraft must be certified under EASA CS-23 or equivalent.

3.8 The standard crew complement for the MPA is defined by the AFM as being composed of the following:

- Pilot
- Co-pilot
- Tactical System Operator
- 2 x Observers

Standard five (5) crew weight should be calculated at 190 lb. each.

3.9 Aircraft configured in the MPA role complete with the standard crew complement as per paragraph 3.8 above must meet the following flight profile capabilities:

<table>
<thead>
<tr>
<th>Distance</th>
<th>Not more than 1.28hrs transit time to incidents at 200NM at 75% cruise power.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speed</td>
<td>Not less than 156 kts cruising speed at 75% cruise power.</td>
</tr>
<tr>
<td>Time</td>
<td>Not less than 2.66hrs on-task time for incidents at 200NM when deploying within the transit time/speed specified above.</td>
</tr>
<tr>
<td>Crew</td>
<td>Standard MPA Crew</td>
</tr>
<tr>
<td>Deployment</td>
<td>Ability to directly deploy to a maximum range of 1000NM with the aircraft at Maximum All Up Weight (MAUW) and also including IFR reserve (45 min)</td>
</tr>
</tbody>
</table>

Table 1 - Flight Profile Table

---

2 This profile is defined as departure to cruise climb to altitude (altitude being ≥12500 ft with an objective requirements of ≥20000 ft), cruise at ISA +25°C and descent to operation area or destination airport.
3.10 Aircraft must be fitted for dual pilot operations and flight instructions. The aircraft should be certified for VFR/IFR dual pilot. As an objective requirement the aircraft must be certified for single pilot VFR/IFR operations.

3.11 Timeline. Given that this project will be procured using financial resources from the European External Borders Fund (EBF) 2009 allocation, all deliverables must be in place, all long-term services contracted and all payments disbursed by no later than 31 December 2010.

3.12 Language. All placards, markings and signs (exterior and interior) are to be provided in English. The entire operating environment must be provided in English.

3.13 Direct Operating Costs. The tenderer must supply with the tender document for evaluation the direct operating costs for both the aircraft and the mission equipment and sensors.

The costs should reflect the average utilisation flight hours as described in para 13.2 of this technical specification. The estimation should include the total hourly costs taking into account the following operating expenditures:

- Fuel Costs (local rate of approximate €1.10 per litre)
- Airframe Maintenance
- Engine Maintenance
- Equipment/Sensors Maintenance

The estimation should reflect the type of service and support package agreement being proposed by the tenderer and should also cover scheduled maintenance, all required inspections and overhauls, airworthiness directives, service bulletins, etc. The estimation should differentiate between maintenance being carried out in-house (base maintenance), or in maintenance facilities locally or abroad.

3.14 Performance. The tenderer must supply with the tender document for evaluation performance documentation for both the aircraft configured in the MPA role and the mission equipment and sensors.

4. Airframe Requirements

4.1 Dimensions. Due to hangar limitations the aircraft should not exceed the following dimensions:

- Length: < 23 meters
- Wingspan: < 23 meters
- Height: < 7 meters

4.2 Undercarriage. Aircraft undercarriage must meet the following criteria:

- Landing gear to be tricycle type undercarriage
- Undercarriage can be either Fixed or Retract type.

4.3 Cabin. Aircraft should have a walk-through cabin.
4.4 Wings. Aircraft can be either a Low wing type, Mid wing type or High wing type.

4.5 Aircraft must have two major compartments; cockpit compartment and cabin compartment. The two compartments need to be interconnected with access from the cockpit to the cabin and vice versa.

![Cockpit Compartment and Cabin Compartment](image)

Figure 1 – Cockpit/Cabin Compartment

The aircraft must have adequate emergency exits in accordance with the size and type of aircraft and the number of people it is certified to carry.

4.6 Towing. For ground handling without engine power, it must be possible to tow and push the MPA using a towbar attached to the nose landing gear.

4.7 Protection. The MPA structure must have suitable protection against corrosion for use in the maritime environment. Special consideration must be given to critical areas where it is considered that corrosion is susceptible.

4.8 Exterior Finish. The MPA must be painted in the following colour scheme:

- Fuselage – Low Infrared Grey
- Nose/Wingtips/Elevators/Rudder – Day-glow Orange

The general paint scheme for external metal surfaces must be:

- Epoxy primer
- Flexible polyurethane top coat

Parts fabricated from fibre-reinforced composite materials must be painted with antistatic primer paint and a flexible top coat.

Tenderer should furnish initial colour designs with the tender application. The final colour designs should be confirmed by both the AFM and the selected contractor by no later than two (2) months after award of contract.

4.9 Interior Finish. The aircraft should be furnished with a high durability interior finish that allows for the use of the aircraft as a maritime patrol aircraft.

Tenderer should furnish initial interior finish designs with the tender application. The final interior finish designs should be confirmed by both the AFM and the selected contractor by no later than two (2) months after award of contract.
5. Engines Requirements

5.1 Aircraft must have two (2) turbine type engines.

5.2 Fuel type: JET A-1/JP-8 (NATO code F-34)

6. Aircraft Noise Requirements

6.1 The aircraft must be designed to comply with the applicable noise requirements defined under EASA CS-36 or equivalent to be able to fly in any EUMS.

6.2 The ambience noise level in the aircraft must be as such that the crew can conduct a conversation without the use of headsets. The minimum requirement for the ambience noise level in the aircraft in flight with all mission equipment/sensors operating should be < 85dB.

As an objective requirement the ambience noise level in the aircraft in flight with all mission equipment/sensors operating should be \(\leq 80\text{dB}\).

7. Cockpit Compartment

7.1 The cockpit compartment will accommodate the flight deck crew (pilot and co-pilot).

7.2 Avionics. The aircraft should be equipped with a standard avionics package for VFR/IFR flights which will enable the aircraft to be flown in a European airspace.

7.3 Pilots/Co-pilots seats. Cockpit seats at the cockpit compartment side must be certified for take-off and landing. The pilot/co-pilot seats should be adjustable for forward/aft and up/down movement.

7.4 The avionics must consist of at least the following equipment:

- NAV/COM. Dual NAV/COM for Pilot and Co-Pilot. The equipment should meet the following minimum requirements:

<table>
<thead>
<tr>
<th>Item</th>
<th>Frequency</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADF</td>
<td>190.0 kHz - 1799.5 kHz</td>
<td>500 Hz channel spacing</td>
</tr>
<tr>
<td>VOR/LOC</td>
<td>108.00 MHz - 117.95 MHz</td>
<td>50 kHz channel spacing 200 channels receiver</td>
</tr>
<tr>
<td>ILS Localiser</td>
<td>108.00 MHz - 112.00 MHz</td>
<td></td>
</tr>
<tr>
<td>GS</td>
<td>329.15 MHz - 335.00 MHz</td>
<td>150 kHz channel spacing automatically paired to ILS localizer frequencies. 40 channels receiver</td>
</tr>
<tr>
<td>MB</td>
<td>75 MHz</td>
<td></td>
</tr>
</tbody>
</table>
The VOR/LOC, GS and MB should be fully integrated within the NAV receiver. GS frequency and LOC frequency must be coupled for a standard ILS facility.

The VOR/LOC, GS, MB and ADF receiver must be combined into one unit.

- The cockpit should be a 'glass cockpit'. The cockpit must consist of at least three (3) digital displays, PFD for the pilot, PFD for the co-pilot and centre MFD. The displays must be of LCD type – Flat panel type screens, sunlight readability and high resolution.

- FMS. The aircraft must include two (2) FMSs. Both FMSs must be enhanced for the Maritime Surveillance role as specified below.

As an objective requirement the FMS must be able to fly the aircraft through the following mission search patterns:

- Parallel Pattern

![Figure 2 - Parallel Search Sample](image-url)
- Creeping Line Pattern

![Figure 3 - Creeping Line Search Sample](image)

- Sector Pattern

![Figure 4 - Sector Search Sample](image)

The above figures are samples only. The system should allow for planning any search with the possibility of:

- Resizing search area according to the mission
- Defining the number of legs
- Defining different orientation

- Transponder. The aircraft must be equipped with a transponder. The equipment must be compliant with EU requirements for enhanced surveillance (Mode S) operation.
• **TCAS.** The TCAS system should be a TCAS II, second (2nd) generation type system. The equipment is to be fully compliant with the provisions of the latest requirements of the ICAO SARPS (Standards and Recommended Practices) and associated ACAS II mandate or equivalent.

• **AUTOPILOT.** The aircraft should be equipped with an integrated three axis autopilot system.

• **WX RADAR.** The MPA must be equipped with weather radar that provides a weather map that shows atmospheric returns in the aircraft forward sector. The sector is defined as 120° forward of the aircraft (60° left/60° right of aircraft).

The radar should display weather information such as rain clouds formation and thunderstorms activity, using different colours to represent the varying intensity of the clouds. The radar should also include a secondary search mode.

• **RCU.** The aircraft must be equipped with a radio control unit. The radio control unit must provide a centralised system that is easy-to-use and that interfaces different aircraft radios. The system should interface the following aircraft radios:
  - COMMS
  - NAV
  - DME
  - ADF
  - Transponder
  - TCAS

The system should have a guarded key emergency function for the COM radio emergency channel 121.500 MHz and transponder mode Code 7700.

• **GPS.** The aircraft should include two (2) GPSs that should be integrated to the FMS.

• **Radar Altimeter.** The aircraft should be equipped with a radar altimeter for low flying operations. The terminal should be capable of registering altitude from 0 to 2500 feet AGL.

• **HF.** The cockpit should include a HF terminal (voice) for use by the pilots.

• **TACAN.** As an objective requirement the system should a TACAN system. The system should be capable of providing range and bearing from a TACAN ground station, station identity, ground speed and time-to-station. The TACAN terminal should be capable of displaying simultaneously two (2) TACAN tuned-in stations. The equipment is to be compliant with the provisions of Mil-Std-291C and STANAG 5034 for air-to-air operations or equivalent.
8. **Cabin Compartment**

8.1 The cabin compartment will accommodate the tactical crew/operators/observers.

8.2 Internal Tactical Setup. As a minimum there will be one primary system operator console in the aircraft. The console should give the operator integrated command, control and display for all sensors. The sensors/equipment must be integrated using ARINC, Ethernet busses and serial links. Through a system machine interface and Graphic User Interface (GUI) the tactical operator must be able to manage the different sensors in order to display different data, graphical inlays and layers (e.g., AIS, surveillance radar, charts, email, etc).

As an objective requirement the aircraft should be equipped with a secondary system operator console. The console should have the same functionality as the primary system operator console.

8.3 All stations must have available a PJ-068 and PJ-055 sockets to accept the standard dual type plug aviation headsets.

8.4 Seats. All seats at the cabin compartment side must be certified for take-off and landing.

As an objective requirement the seat/s at the system operator console/s should be able to adjust for forward/aft and up/down movement.
8.5 Observation windows. The aircraft should be equipped with two bubble type observation windows, installed one on each side of the fuselage. The observation windows are intended to be used during low altitude visual observation and for the use of hand held cameras/binoculars during maritime patrolling.

As an objective requirement the aircraft should be equipped with two oversized observation windows, installed one on each side of the fuselage.

![Figure 6 - Sample Oversized Observation Window](image)

As an objective requirement both seats for the observation windows should be sideways mounted and that they rotate forward for take-off/landing.

8.6 As an objective requirement the cabin compartment should include also two (2) extra seats preferably facing each other, certified for take-off and landing with reclining capabilities and an extractable or fixed table. This station should include communication, power and network outlets.

8.7 As an objective requirement the cabin equipment should be modular for easy removal and re-configuration of the aircraft.

9. Mission/Surveillance Sensors

9.1 The aircraft should be equipped with the specified mission/surveillance sensors.

9.2 The aircraft must be equipped with a range of different sensors that are used for surveillance, identification and documentation. The integrated mission system must provide the crew with a detailed surface picture of the area of interest, by day and night, in high sea states and in adverse weather conditions. The different sensors together with the cockpit must form part of a mission management system, which is the interface between the technical equipment, system operators and the pilots.
The different sensors must be connected through a sensor bus. The sensor bus should support the data exchanges between the sensors, and the equipment installed on the aircraft via ARINC, Ethernet busses and serial links. The system must be designed to correlate the data generated by the system operator and by the sensors.

As an objective requirement the complete mission system design should be based on hardware, software architecture and open bus structures allowing growth potential and scalability potential for future improvement of the mission system.

9.3 System Operator Console. The console must be ergonomically designed for the operator to effectively operate all sensors and their operational functions. The system operator console should be characterized with the following items:

<table>
<thead>
<tr>
<th>Item</th>
<th>Minimum Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Console</td>
<td>One (1) LCD type high resolution screen as a main display unit. Size ≥ 17” screen</td>
</tr>
<tr>
<td></td>
<td>One (1) LCD type high resolution screen as a secondary display unit. Size ≥ 17”</td>
</tr>
<tr>
<td></td>
<td>Touch screen functionality</td>
</tr>
<tr>
<td></td>
<td>One (1) keyboard</td>
</tr>
<tr>
<td></td>
<td>One (1) Trackball</td>
</tr>
<tr>
<td>Processor</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The following sensors should be integrated into the console:</td>
</tr>
<tr>
<td></td>
<td>• Surveillance Radar</td>
</tr>
<tr>
<td></td>
<td>• EO/IR</td>
</tr>
<tr>
<td></td>
<td>• AIS</td>
</tr>
<tr>
<td></td>
<td>• DF</td>
</tr>
<tr>
<td></td>
<td>• COMMS</td>
</tr>
</tbody>
</table>
As an objective requirement the console should have redundant features. When one of the two displays fails, the operator can continue to display the situation and to control the sensors on the other display. If the keyboard or the trackball fails, the operator should be able to control the system from the touch-screen display.

Table 3 - System Operator Console Requirements Table

9.4 Surveillance Radar. The aircraft must be equipped with a primary sensor for long range, large area surveillance and detection. The surveillance radar should be characterised with the following functions:

<table>
<thead>
<tr>
<th>Item</th>
<th>Minimum Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surveillance Radar</td>
<td>Mounting Type: External mounted radome underneath the aircraft with a non-obstructive view of 360°.</td>
</tr>
</tbody>
</table>

The following functions should be incorporated in the radar functionality:
- Target detection
- Target localisation
- Target tracking
- Target tracking creation
- Target classification

Features:
- Track-While-Scan (TWS) - Multitarget
- Kalman Filtering
- Incorporated tactical graphics generation tool
- Weather Avoidance capabilities
- Search and Rescue Transponder (SART) beacon detection
- Navigation mode

Performance:
- Continuous 360° scan with sector scan capabilities
- Long range detection of > 100Nm
- TWS > 20 simultaneous targets
- Small targets detection for targets of 1 sq. metre at a range of > 15Nm at sea state 3
- Short range detection mode

As an objective requirement the radar system should have a flexible system architecture that would allow customisations and scalability of the system.

Table 4 - Surveillance Radar Requirements Table
9.5 EO/IR Sensor. The aircraft must be equipped with an EO/IR turret. The turret should be characterised with the following functions:

<table>
<thead>
<tr>
<th>Item</th>
<th>Minimum Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>EO/IR system</td>
<td>Mounting Type: Externally-mounted turret under the aircraft and must have a non-obstructive view of 360° at an elevation range of -10°. Lateral mounting on fuselage is not an option. The turret could be either a fixed type or extractable type. Sensors: The turret must be equipped with an electro-optic and infrared sensors allowing for day and night imagery that will allow the positive identity of targets. As an objective requirement the EO/IR should also include a Night Spotter Camera to be able to read ships names at long ranges under very low light conditions. Minimum Ground Clearance: The turret in an extended position must have enough clearance from the ground for preventing damage with flat tyres and undercarriage oleos fully compressed.</td>
</tr>
<tr>
<td>EO/IR Turret:</td>
<td>Gyro-stabilisation: 4 axis (pitch/yaw/azimuth/elevation) Slew rate: &gt;30° per second in both azimuth and elevation Azimuth range: Unrestricted 360° Elevation Range: between +30° to -90° Objective requirement: between +30° to -120° Jitter: Less than 35 μrad Video Format: PAL</td>
</tr>
<tr>
<td>IR Imager:</td>
<td>Spectral Range Focal Plane Array: 3-5μm Zoom: &gt;4x electronic zoom with digital interpolation FOV: Wide &gt; 15° (H) x &gt; 15° (V) Narrow &gt;0.5° (H) x &gt; 0.5° (V) Objective Requirement FOV: Wide &gt; 15° (H) x &gt; 15° (V) Medium &gt; 2° (H) x &gt; 2° (V) Narrow &gt; 0.5° (H) x &gt; 0.5° (V) Resolution: 640 x 480 Objective requirement Resolution: ≥1024 x 768</td>
</tr>
</tbody>
</table>
**CCD Camera:**
- Colour Daylight CCD Camera
- Type: 3 CCD Colour
- Resolution: 800 TV lines (PAL)
- Zoom: > 15x Optical zoom plus > 2x Electronic zoom
- FOV:
  - Wide > 15°(H) x > 15°(V)
  - Narrow >0.5°(H) x > 0.5°(V)
- Objective Requirement FOV:
  - Wide > 15°(H) x > 15°(V)
  - Medium > 2°(H) x > 2°(V)
  - Narrow > 0.5°(H) x > 0.5°(V)
- Sensitivity: 0.1 lux

**Ancillary Requirements:**
- EO/IR controller must be ergonomically integrated in the system’s operator console.
- The EO/IR system must be cued with the radar.
- The EO/IR system must be capable of manually controlled by the system’s operator.
- The EO/IR system must have an auto-tracking system based on image contrast and not radar cueing.
- Image from the EO/IR system must be annotated with position (Lat/Long - WGS 84 datum), date and time and other data that are relevant to further analysis.

**Standards:**
- Complete installation to meet MIL-STD-461C (electronic emissions) and MIL-STD-801D (environmental influences) requirements or equivalent.

| Table 5 - EO/IR Requirements Table |

9.6 **Handheld Camera.** To complement the sensor equipment, the aircraft should have a handheld still digital SLR camera to be used by the observers. The aircraft should be equipped with a data acquisition module that is attached to the handheld camera that should provide data regarding the position (Lat/Long – WGS84 datum) of the aircraft as well as date and time. The digital camera should have the functionality to connect to the management system so that pictures could be sent to the command centre or used for the flight reports. The digital camera should come complete with a lens (28 – 200 mm).

9.7 **Recording System.** The aircraft must be equipped with an in-flight recording system that is connected to the mission management system. The purpose for the recording system is to be used for analysis, debriefing and in-flight replay. The recording system must be able in recording the following minimum requirements:

- **Target Data (AIS & Radar acquired)**
- **Contacts Data (AIS & Radar acquired)**
- **Radio Voice Communication**
- **Video Data (EO/IR)**
- **Reports Data**
• Aircraft History (track)
• Operation Data (flight plan)
• Still Images

All data should be recorded on a DVD media format for easy access and playback. The recording should allow playback on the system and playback on the ground (ex PC).

9.8 Cartography. The system should include a digital map/moving map incorporated in the system operator console processor. As a minimum requirement the digital map software should have the function of displaying the following data:

• Coast Lines
• Border Lines (FIR’s)
• Airfields
• Airways
• Cartography tools to input and display user defined areas such as territorial seas, areas of interest, etc

The system should include digital maps of the Mediterranean area and surrounding states plus all EU Member States. Maritime charts should be S57 compliant. The contractor should furnish updates for a period of five (5) years for the digital charts.

9.9 Direction Finder. The aircraft should be equipped with a direction finder (DF) to be used for Search and Rescue (SAR) purposes. The DF should be capable of homing on all standard emergency frequencies, i.e. 121.5/243/406Mhz (COSPAS-SARSAT tracking and message decoding) and Ch16 VHF Marine. In addition the system must allow the operator to select multiple frequencies for special operations and training activities. The DF should have the functional capability of displaying the line of bearings from the DF on the operator’s console. Display for the direction finder should be available in the cockpit.

9.10 AIS. The aircraft should be equipped with an Automatic Identification System (AIS) that collects and displays identification data sent by merchant vessels that are equipped with AIS transponder. The AIS correlated through the mission management system must be characterised with the following functions:

<table>
<thead>
<tr>
<th>Item</th>
<th>Minimum Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIS system</td>
<td>The AIS should display:</td>
</tr>
<tr>
<td></td>
<td>• Static Data</td>
</tr>
<tr>
<td></td>
<td>• Dynamic Data</td>
</tr>
<tr>
<td></td>
<td>• Extended AIS Data</td>
</tr>
</tbody>
</table>

The AIS should have the functionality for selectable transmit and receive modes.

Table 6 - AIS System Requirements Table

9.11 Cockpit Display. The system must include a cockpit display interface in order for pilots to have a better insight into the situation and can view images such as the EO/IR, tactical picture and aircraft track.
10. **Mission Management System**

10.1 The mission management system must have the capabilities of displaying the situation by combining all the different layers, raw data (radar), tactical layer, user layer and digital map layer into one superimposed picture.

10.2 Aircraft data presentation. The display console through the mission management system must provide the capability of displaying aircraft data information. Data should include:

- Aircraft symbol
- Aircraft heading (vector and speed indication)
- Aircraft history (track history)
- Aircraft position (Lat/Long – WGS84 Datum)

10.3 Mission Planning/Execution. Prior to any operational flight the mission system operator must have the capability of using the system operator console in order to develop the flight mission by planning the transit routes, operation area and target of interest. The operator must have the capability of previewing the planned flight mission and the capability to update or modify the plan.

As an objective requirement the system should have a PC based system that allows the operator to plan the flight mission on the ground and than uploads the flight mission data through a USB port on the system operator console.

As an object requirement the system should provide the possibility of uploading the flight plan to the flight management system.

10.4 Flight/Mission Reporting. The system should have the functionality to download flight and mission data in order to compile post flight reports. Flight/mission reports should be pre-formatted and similar to the current flight/mission reports standards currently being used by the AFM. This function should include the possibility of attaching aircraft flight plan, track history and images to the report.

10.5 In addition the scope of delivery should include the following:

- 1 x Laptop Computer c/w Operating System and office package compatible with Windows XP® SP3 and Office 2003 or equivalent.
- 1 x Combined coloured printer/scanner/photocopier.

11. **Communications**

11.1 Intercom. The aircraft should be equipped with an internal communication system that will allow the capability of stations working independently and separately from one another. The system should have split communication capabilities between the cockpit and the cabin. between the pilot and co-pilot and system operator/s, allowing for separate communication activities running at the same time.

The system should include the following minimum requirements:

- A complete internal communication system
- Eight-station intercom
- Split-COM – Pilot/Co-pilot/Primary System Operator/Secondary System Operator (if applicable)
- Interface with SATCOM Voice
- Emergency mode circuitry
11.2 In addition to the standard communication system for the cockpit compartment, the aircraft should be equipped with the following additional communication capabilities:

- VHF Marine
- VHF/UHF FM/AM Voice
- HF Voice
- SATCOM Voice
- SATCOM Data/Email

11.3 VHF Marine. The VHF Marine terminal should be a standard radio capable of being adapted to be used onboard the aircraft. The terminal should at a minimum be capable of operating between 155MHz to 163MHz, in Simplex and Semi-Duplex Mode. The terminal should have a Digital Selective Calling – Controller and operates with a MMSI-Code. The terminal should be capable of inputting and displaying data, such as Channel, received messages, MSSI number, etc. The terminal should be capable of displaying incoming distress alerts visually and audibly. The operator should be capable to switch off such reports after confirmation.

11.4 VHF/UHF FM/AM (Multiband Terminal). The Multiband terminal should be capable of operating in the entire VHF and UHF bands i.e. 30 to 450MHz frequency range and including 121.5 and 243.0 MHz GUARD channels. Channel Spacing for VHF-AM aviation frequency should be of 8.33 kHz (118 - 137 MHz). The equipment is to be compliant with the provisions of STANAG 4204 (Technical Standards for Single Channel VHF Radio Equipment) and STANAG 4205 (Technical Standards for Single Channel UHF Radio Equipment) or equivalent.

The Multiband terminal should be capable of operating in AM and FM modes across the frequency range to allow interoperability with land, air and maritime radios of various types. The terminal should be capable of storing at least 10 pre-defined channels in the memory. The system must have the capabilities of operating in clear or encrypted modes. The encryption algorithm to be implemented should be the Advanced Encryption System (AES) with a 256-bit key. The system should have the...
functionality of Over the Air Rekeying (OTAR) and a filling-gun to allow for encryption key to be inserted manually.

11.4 HF. The HF terminal is to be capable of operating in the 1.6 to 30MHz frequency range. The equipment is to be compliant with the provisions of STANAG 4203 (Technical Standards for Single Channel HF Radio Equipment). Furthermore, the HF terminal should provide for Synchronous Automatic Link Establishment (ALE) Protocols as per Mil-Std 188-141B (Interoperability and Performance Standards for Medium and High Frequency Radio Systems) as well as support emailing facilities using the STANAG 5066 (Profile for High Frequency Radio Data Communications) and STANAG 4538 (Technical Standards for an Automatic Radio Control System for HF Communication Links) protocols or equivalent. Modulations supported should include, as a minimum, J3E, H3E, A1A, J2A, F3E and A3E. The HF terminal should be capable of storing at least 10 pre-defined channels in the memory. The system must have the capabilities of operating in clear or encrypted modes. The encryption algorithm to be implemented should be the Advanced Encryption System (AES) with a 256-bit key. The system should have the functionality of Over the Air Rekeying (OTAR) and a filling-gun to allow for encryption key to be inserted manually.

11.5 SATCOM. Satellite communications terminal supplied under this tender should provide the cockpit/cabin with one (1) satellite communication system for simultaneous voice and high-speed data transfer.

Voice. The configuration should allow voice communication for the flight crew and cabin crew. Access to the telephony system should be through the aircraft’s RCU system with the provision of maintaining full headset operation.

Broadband Data. The configuration should allow broadband data to be passed over the terminal installed at the tactical operator’s console. Transmission will be, but not limited to:

- Transmission and receiving of pre-formatted messages through email (using standard protocols available such as TCP/IP or equivalent) for mission reports that includes take-off, on task, off task, tracks coordinates and aircraft position. This system should have the capability of the user defining the message formats.
- Transmission of images collected from the radar, EO/IR sensor and still images.
- As an objective requirement the system should be able in transmitting AIS and Radar data to the AFM Operations Centre for uploading in the Coastal surveillance system in order to generate a single picture. Data transmitted should be compliant with the current AFM AIS and Radar protocols.

“Information on protocols and standards can be provided on request by writing by the bidding contractor.”

These messages will be passed in a timely manner and will not interfere with any transmission protocol. Minimum data streaming should be at 32kbps.

The SATCOM terminal must provide an interface to a PC based computer (i.e. system’s processor) for satellite communications. The system should run the necessary applications within a Windows XP® SP3 environment or equivalent. The system should be operated from the operator’s console.

As an objective requirement the SATCOM system should provide the following features:

- VoIP Connectivity
- Large file transfer (graphics and video)
- Data streaming up to 128kbps
- Built-in network switch for supporting at least two (2) wired laptops (One (1) in cockpit, co-pilot side and one (1) in cabin, at the extra seats station).

Figure 9 - SATCOM Architecture

12. Additional Equipment

12.1 The aircraft should be equipped with a small galley allowing for the storage of at least hot and cold liquids and a dry compartment to store small meals and supplies for the crew.

12.2 The aircraft should be equipped with a toilet (seated/chemical), which is adequately positioned in the aircraft and screened from other stations.

12.3 Air-conditioning System. The MPA must be provided with an air-conditioning system that maintains a temperature controlled environment of cold and warm air to the cockpit compartment and cabin compartment. The air-conditioning of the cockpit and cabin compartment should be regulated through control panels. The system should allow for regulated temperatures of between +18°C and +28°C. The aircraft should be capable of maintaining a stable internal temperature as defined above whilst operating within different altitudes. Altitudes may range from 0’ to 4000’ during maritime surveillance and above 4000’ during transiting phase.

12.4 Drop-hatch. The aircraft should be equipped with a drop-hatch capable of air droppable survival and rescue equipment (liferafts as per para 12.7 of this technical document) during maritime surveillance operations. For safety reasons the drop-hatch should be equipped with a system that will notify the flight crew on the instrument panel when the drop-hatch is opened or not properly secured. The aircraft must contain the proper safety equipment needed for the operator to operate safely the drop-hatch.
12.5 Smoke Flare/Surface Markers Dispenser. The aircraft should be equipped with a dispenser for deploying smoke, flares and markers. The dispenser could also be part of the drop-hatch system. The aircraft should come equipped with a set of smoke and markers (ten (10) in total) and must incorporate adequate storage space to store a minimum of four (4) on the aircraft.

12.6 Emergency Locator Transmitter (ELT). The MPA must be equipped with an ELT for operation over the maritime environment. The ELT must be a Category I 406/121.5 MHz. Activation must be either automatically on a crash or crew activated by a remote switch. Proper registration of the ELT must be carried out by the Contractor.

As an objective requirement the system should be adequately installed on the aircraft fuselage that will allow the ELT to be detached from the aircraft and float in case of a crash in the water.

12.7 The aircraft must come equipped with two (2) liferafts.

- 1 x Liferaft – Crew (8 PAX – including survival kit)
- 1 x Liferaft – Air Droppable (8 PAX – Soft case shell)

As an objective requirement the contractor should supply an extra air droppable liferaft to be stored at the technical depot.

12.8 Emergency equipment. The aircraft must be delivered with the necessary onboard emergency equipment:

- Fire extinguishers in cockpit and cabin compartments
- Flash Lights
- Emergency Axe
- First Aid Kits (Certified)

12.9 Aircraft Additional Equipment. The aircraft must be provided with all the necessary equipment. The equipment should contain the following plus any other equipment deemed necessary for the aircraft:

- Towbar
- Wind Lock Assembly (Control surfaces)
- Pitot Tube covers
- Engine air intake covers
- Propeller Locks (if applicable)
- Tie down kit

12.10 Fire Protection. The aircraft must be provided with a fire detection and fire warning system and a fire extinguishing system installed for each engine. The warning system should be installed in the cockpit and should be both audible and visual. The system should also consist of a test circuit and fire handles, clearly illuminated that should be installed in the cockpit.

13. Service and Support Package

13.1 Bids are to include a service and support package to maintain and support the aircraft. The service and support package should be valid for a period of three (3) years from the delivery of the aircraft.

As a minimum requirement the tenderer should provide a service and support and maintenance agreement. As an objective requirement the tenderer should a ‘Power by the Hour’ agreement based on three hundred (300) hours per year. This agreement should include airframe, engines and equipment/sensors. The tenderer is also to provide with this tender a quote for a ‘Power by the Hour’ agreement for aircraft operations over three hundred (300) hours. Calculation should be based on a twenty five (25) hours block not exciding a maximum of five hundred (500) hours flight time per year.

13.2 The service and support package must be calculated on the average utilisation operational parameters:
• Number of flight hours per annum – three hundred (300) hours

13.3 The Armed Forces of Malta reserves the right to evaluate whether the submitted service and support packages are financially advantageous, feasible and that they meet the operational requirements in the best interest of the AFM and select the optimum solution.

13.4 The service and support packages must include the necessary spares package and special tools for the aircraft, equipment and sensors in order to support the aircraft for a period of three (3) years from the date of delivery.

13.5 As an objective requirement the service and support package should include a spare engine.

14. Training

14.1 Goals. The main goal of the training is to empower aircrew and ground personnel to be proficient in all areas of MPA, flying, system utilisation and maintenance. The scope of supply of the training should be designed for the aircrew to achieve maximum operational results in their respective theoretical and practical duties.

The contractor should schedule together with the AFM all training prescribed hereunder. All training must be completed by no later than 31 December 2010.

Contractor should be responsible for forwarding a training package that should include the following items:

- The training package should include the following items:
  - All travel for training that will be conducted outside Malta
  - All accommodation for training that will be conducted outside Malta
  - All board and lodging for training that will be conducted outside Malta
  - All training materials, publications, course notes, etc.
  - All personnel required to deliver the training package
  - All flight time required for practical training

All training and materials must be in English

14.2 Pilot Training. Pilot training on type must be provided by the contractor. The contractor must provide training for the following:

- 2 x Instructor Pilots
- 6 x Fixed-wing Pilots

The training should be set up as follows:

- 2 x Instructor Pilots – Type rating and Instructor/Instrument Refresher course
Instructor Pilots are qualified CFII (FAA) – Multiengine/Piston

- 6 x Fixed-wing Pilots – Type rating “VFR only” –

Fixed-wing Pilots are all qualified up to PPL – Multiengine/Piston

All pilots carry a 1st Class Medical certificate and are fit to carry out flying duties within the Armed Forces of Malta. All pilots carry a valid military pilot’s licence issued by the Armed Forces of Malta.

“Information on pilot’s currency, qualifications and hours can be provided on request by writing by the bidding contractor.”

14.3 A/C Technician Training. The objective of the aircraft technician training is to qualify selected technicians in the maintenance on aircraft type. The aircraft technicians should be capable of carrying out the level of base maintenance. As a minimum requirement the contractor should provide training for the following:

- 3 x Engine & Airframe Technicians
- 2 x Avionics Technicians

The training should provide the technicians with maintenance and theoretical training in procedures of:

- lifting systems
- fuselage
- empennage
- flight controls
- landing gear
- power plants
- electrical systems
- maintenance inspections
- pressurisation/oxygen systems (depending on aircraft type)

Course certification should be in accordance to EASA Part 147.

Technicians are qualified up to Cat A and Cat B.

“Information on technician qualifications can be provided on request by writing by the bidding contractor.”

14.4 Systems’ Technical Training. The objective of this technical training is to train selected personnel in the maintenance of sensor and equipment being installed on the aircraft. The technical training should provide selected personnel with an understanding of sensors and equipment configuration, functioning, operationally, troubleshooting, repair and maintenance.

The Contractor should provide systems’ technical training for four (4) technicians.
14.5 Operator Training. The objective of this operator training is to train selected personnel in the operation of the selected sensors and equipment. The training should provide the operators with knowledge of how to configure, function and operate the sensors and equipment.

The Contractor should provide operator training for five (5) operators.

14.6 Additional Training. The Contractor should provide training for the following technical personnel:

- 1 x Technical Documentation Clerk
- 1 x Technical Storeman

14.7 Option. The main training goal in the option would be the upgrading of pilots licensing. The scope of the training should be designed for the pilots to achieve maximum operational results in their respective theoretical and practical duties.

The tender is to include a training package for qualifying the previously typed rated six (6) pilots with an IFR rating. The tenderer should take into consideration that all pilots carries military licenses with a 1st Class Medical Certificate.

15. Documentation and Technical Publications

15.1 The following printed documentation and technical publications should be delivered by the Contractor:

- Pilots Operating Manual
- Aircraft Flight Manual
- Pilots Checklist (10 copies)
- Maintenance Manual: airframe - engines - propellers
- Aircraft Technical Logs: airframe - engines - propellers
- Avionics Pilots Manual
- Maintenance Information Sheets
- Flight Log
- Maintenance Inspection Log
- Sensors and Equipment Technical Manuals
- Sensors and Equipment Operating Manuals

The contractor should also provide the above in electronic format (CD/DVD).

The following electronic publications should also be provided (CD/DVD):

- Component Maintenance Manual
- Wiring Diagram Manual
- Maintenance Manual
- Parts Manual
- Printed Circuit Board Manual
- Structural Repair Manual

The Contractor should also provide a directory of service centres. Contractor is to provide necessary updates for the technical publications and manuals for a period of three years from the delivery of the aircraft.
15.2 All documentation and technical publications must be delivered in English language.

16. Warranty

16.1 The aircraft, engines, avionics, sensors and equipment, and modifications, purchased under this tender must be covered by a minimum of twenty four (24) months warranty period.

16.2 Warranty Engineer. Contractors are to assign a technically-competent/regional warranty engineer as a focal point who will assist the AFM in addressing any warranty issues and ensure that specified periodical maintenance is conducted in a manner that does not void the conditions of the warranty. The warranty engineer is to be assigned from delivery of the aircraft to the end of the warranty period. The warranty engineer, if not situated in Malta should be available to respond and travel to Malta within twenty four (24) hours following the receipt of request.

17. Trials and Acceptance

17.1 Trials. All trials are to be conducted at the contractor’s facility in the presence of a designated representative of the Armed Forces of Malta and a representative of the contractor. Provisional acceptance of the product is contingent on the successful completion of all the trials.

Test Memoranda are to be prepared by the selected contractor on award of contract and submitted to the Armed Forces of Malta by no later than one (1) month after award of contract. The AFM may propose eventual changes to the memoranda within the two (2) weeks following their receipt from the contractor.

17.2 Acceptance. The aircraft complete with the systems will be accepted by an authorised representative of the Armed Forces of Malta prior to delivery. Furthermore, additional acceptance certificates are to be issued for the spares package and training package. Provisional acceptance is to be conducted at the contractor’s facility.

It should be noted that these acceptance certificates do not in any way substitute the Final Acceptance Certificate to be issued by the Contracting Authority on completion of the contract conditions as mentioned in the Instructions to Tenderers.

17.3 Delivery. The contractor is responsible for the delivery and transfer costs following the provisional acceptance of the aircraft to Malta.
Part 2 - the Contractor's technical offer
**ANNEX III: Model financial offer (to be tailored to the specific project)**

**PUBLICATION REFERENCE:** [..................]

**NAME OF TENDERER:** [..................]

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Done at: [..................], [..\..] by [name]

On behalf of [..................] [tenderer's stamp and signature]
ANNEX IV – MODEL PERFORMANCE GUARANTEE

[On the headed notepaper of the financial institutions providing the guarantee]

Director of Contracts
(or Head of Department concerned)

In connection with the agreement entered into between yourself on behalf of the Malta Government and
(Name and Address of Contractor)
referred to as “the Contractor” as per the latter’s tender dated …………………………….. and your Acceptance
(Ref.…………………………..) of the ………………………….. whereby the Contractor
undertook to provide, supply, deliver to site / store, erect complete, hand over in working order and
thereafter maintain* in accordance with the terms of Clause ……… of the General Conditions the
works/services as mentioned, enumerated or referred to in the Specifications and / or Bills of
Quantities forming part of the tender documents, we hereby guarantee to pay you on demand a
maximum sum of (amount in words) …………..…………..…………. (and figures)
…………………………….. in case the obligations under the above mentioned agreement are not
duly performed by the Contractor.

It is understood that this guarantee will become payable on your first demand and that it shall not be
incumbent upon us to verify whether such demand is justified.

For avoidance of doubt it is hereby declared that although this instrument gives rise to legal relations between
the guarantor and Government it is hereby specifically declared for all intents and purposes of law
that this guarantee does not exempt the above-mentioned Contractor from any obligations, acts of
performance or undertakings assumed under the tender documents as ratified in the Contract.

Any payments due to the Contractor in respect of the obligations entered into under the contract above
referred to shall be made through this Bank / Financial Identification Form*.

This guarantee expires on the ……………………………….. and unless it is extended by us or
returned to us for cancellation before that date any demand made by you for payment must
be received in writing not later than the aforesaid expiry date.

This document should be returned to us for cancellation on utilization or expiry or in the event of the guarantee
being no longer required.

……………………………..
Bank Manager

……………………………..
Date
ANNEX V : PRE-FINANCING GUARANTEE FORM

[On the headed notepaper of the financial institution providing the guarantee]

Title of contract: <Title of contract>

Identification number: <Publication reference>

We, the undersigned, [name, company name, address], hereby declare that we will guarantee, not merely jointly and severally, but as principal debtor, to the Director of Contracts, Department of Contracts, Notre-Dame Ravelin, Floriana CMR02, Malta on behalf of [Contractor's name and address], the payment of [indicate the amount of the pre-financing/balance], corresponding to the pre-financing/balance as mentioned in Article 26.5 of the Special Conditions without dispute, on receipt of a first written request from the beneficiary.

The guarantee will enter into force and take effect from the [indicate the date of payment of the pre-financing/balance].

We note that you will release the guarantee and notify us of the fact at the latest [within sixty days of provisional/final acceptance of the goods/within thirty days of receipt of the final statement].

Any dispute concerning this guarantee shall be governed by the Laws of Malta.

Name: …………………………… Position: …………………

Signature: …………………

Date: <Date>
ANNEX VI

BID BOND

[On the headed notepaper of the financial institutions providing the guarantee]

Whereas the Director of Contracts has invited tenders for __________________________________________
and whereas Messrs __________________________________________ [Name of tenderer] (hereinafter referred to as the Tenderer) is submitting such a tender in accordance with such invitation, we ___________________________ [Name of Bank], hereby guarantee to pay you on your first demand in writing a maximum sum of ___________________________ Euro (Euro ___________________) in case the Tenderer withdraws his tender before the expiry date or in the case the Tenderer fails to provide the Performance Bond, if called upon to do so in accordance with the Conditions of Contract.

The guarantee becomes payable on your first demand and it shall not be incumbent upon us to verify whether such demand is justified.

This guarantee is valid up to and expires on the ________________, and unless it is extended by us or returned to us for cancellation before that date, any demand made by you for payment must be received at this office in writing not later than the above-mentioned expiry date.

This document should be returned to us for cancellation or utilisation or expiry or in the event of the guarantee being no longer required.

After the expiry date and in the absence of a written demand being received by us before such expiry date, this guarantee shall be null and void, whether returned to us for cancellation or not, and our liability hereunder shall terminate.

Yours faithfully,

__________________

Bank Manager

Date ______________
Annex VII

**Details of Bidder**

<table>
<thead>
<tr>
<th>Name of Tenderer/Joint Venture/Consortium</th>
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<tr>
<td>Address</td>
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<td>Manufacturer</td>
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ANNEX VIII

EU DECLARATION

STATEMENT ON EXCLUDING CIRCUMSTANCES OF ARTICLE 49 OF PUBLIC CONTRACTS REGULATIONS 2005.

This declaration, duly completed, must be submitted by all tenderers and returned with the tender submission.

Name of Tenderer: _________________________________ _________________________

Address:  _________________________________________ _________________

Please tick Yes or No as appropriate to the following statements relating to the current status of your organization:

1. The tenderer is bankrupt or is being wound up; or whose affairs are being administered by the court, who has entered into arrangement with creditors or who has suspended business activities or who is in any analogous situation arising from a similar procedure under national law and regulations.
   [YES]  [NO]

2. The tenderer is the subject of proceedings for a declaration of bankruptcy, for an order for compulsory winding up or administration by the court for an arrangement with creditors or of any other similar proceedings under national laws or regulations.
   [YES]  [NO]
3. The tenderer has been convicted of an offence concerning professional conduct by a judgment which had the force of *res judicata* in accordance with the laws of Malta.

[YES]   [NO]

4. The tenderer has been declared guilty of grave professional misconduct proven by any means which the contracting authorities can demonstrate.

[YES]   [NO]

5. The tenderer has not fulfilled the obligations relating to the payment of social security contributions in accordance with the law of Malta or the country in which he is established.

[YES]   [NO]

6. The tenderer has not fulfilled obligations relating to the payment of taxes in accordance with the legal provisions of Malta or the country in which he is established.

[YES]   [NO]

7. The tenderer is guilty of serious misrepresentation in supplying the information required under these regulations or has not supplied such information.

[YES]   [NO]

8. The tenderer is the subject of conviction by final judgment for one or more reasons listed below:

   (a) participation in a criminal organization, as defined in Article 2(1) of Council Joint Action 98/733/JHA;
   (b) corruption, as defined in Article 3 of the Council Act of 26 May 1997 and Article 3(1) of Council Joint Action 98/742/JHA respectively;
   (c) fraud within the meaning of Article 1 of the Convention relating to the protection of the financial interests of the European Communities;

[YES]   [NO]

I certify that the information provided above is accurate and complete to the best of my knowledge and belief. I understand that the provision of inaccurate or misleading information in this declaration may lead to my organization being excluded from participation in future tenders.
Tenderers who have been guilty of making false declarations will incur financial penalties representing 10% of the total value of the contract being awarded. The rate may increase to 20% in the event of a repeat offence within five years of the first infringement.

SIGNATURE: __________________ DATE: _____________ __

NAME: __________________ TEL: _____________

DOCUMENT PREVIEW
C. FURTHER INFORMATION

GLOSSARY

Central Government Authority: means the Department of Contracts

Contracting Authority: means the final beneficiary

Project Manager: The legal or natural person responsible for monitoring the execution of the contract on behalf of the Contracting Authority and/or the Commission, where the latter is not the Contracting Authority.

General conditions: The general contractual provisions setting out the administrative, financial, legal and technical clauses governing the execution of contracts.

Special conditions: The special conditions laid down by the Contracting Authority as an integral part of the tender dossier, including modifications to the general conditions, clauses specific to the contract and the terms of reference (for a service contract) or technical specifications (for a supply or works contract).

Evaluation committee: A committee made up of an odd number of voting members (at least three) appointed by the Central Government Authority and possessing the technical, linguistic and administrative capacities necessary to give an informed opinion on tenders.

Written communications: Certificates, notices, orders and instructions issued in writing under the contract.

Administrative order: Any instruction or order issued by the Project Manager to the Contractor in writing regarding the provision of the supplies.

Conflict of interest: Any event influencing the capacity of a candidate, tenderer or contractor to give an objective and impartial professional opinion, or preventing him, at any moment, from giving priority to the interests of the Contracting Authority and the Central Government Authority. Any consideration relating to possible contracts in the future or conflict with other commitments, past or present, of a candidate, tenderer or contractor, or any conflict with his own interests. These restrictions also apply to subcontractors and employees of the candidate, tenderer or contractor.

There is a conflict of interests within the meaning of Article 52 of the Financial Regulation where the impartial and objective exercise of the functions of a player in the implementation of the budget or an internal auditor is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the beneficiary.

Breakdown of the overall price: A heading-by-heading list of the rates and costs making up the price for a lump-sum contract.
**Period:** A period begins the day after the act or event chosen as its starting point. Where the last day of a period is not a working day in the country of the Contracting Authority, the period expires at the end of the next working day.

**Day:** Calendar day.

**In writing:** This includes any hand-written, typed or printed communication, including telex, cable and fax transmissions.

**Foreign currency:** Any currency, other than the euro, which is permissible under the applicable provisions and regulations and has been indicated in the tender.

**National currency:** The currency of the country of the Contracting Authority.

**Tender price:** The sum stated by the tenderer in its tender for carrying out the contract.

**Contract value:** The sum stated in the contract representing the initial estimate payable for carrying out the supplies, or such other sum as ascertained at the end of the contract as due under the contract.

**Liquidated damages:** The sum stated in the contract as compensation payable by the Contractor to the Contracting Authority for failure to complete the contract or part thereof within the periods under the contract, or as payable by either party to the other for any specific breach identified in the contract.

**General damages:** The sum not stated beforehand in the contract, which is awarded by a court or an arbitration tribunal, or agreed between the parties, as compensation payable to an injured party for a breach of the contract by the other party.
D. TENDER FORM FOR A SUPPLY CONTRACT

Publication reference: <Publication reference>
Title of contract: <Title of contract>

A: <Name and address of Central Government Authority>.

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* add/delete additional lines for partners as appropriate. Note that a subcontractor is not considered to be a partner for the purposes of this tender procedure. If this tender is being submitted by an individual tenderer, the name of the tenderer should be entered as ‘leader’ (and all other lines should be deleted)

2 CONTACT PERSON (for this tender)

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</table>
3 TENDERER’S DECLARATION(S)

To be completed and signed by the tenderer (including one from each partner in a consortium).

In response to your letter of invitation to tender for the above contract, we, the undersigned, hereby declare that:

3.1 We have examined and accept in full the content of the dossier for invitation to tender No [……………………………….] of [../../..]. We hereby accept its provisions in their entirety, without reservation or restriction.

3.2 We offer to deliver, in accordance with the terms of the tender dossier and the conditions and time limits laid down, without reserve or restriction:

Lot no [….]: [description of supplies with indication of quantities and origin]
Lot no [….]: [description of supplies with indication of quantities and origin]
Lot No [….]: [………………………………………………………….……]
Lot No [….]: [……………………………………………………………….]

3.3 The price of our tender [excluding the discounts described under point 4] is:

Lot No 1: [……………………………………………..]
Lot No 2: [……………………………………………..]
Lot No 3: [………………………………………… …..]

3.4 We will grant a discount of [%], or [………….] [in the event of our being awarded Lot No ……….].

3.5 This tender is valid for a period of [………….] from the final date for submission of tenders, i.e. until [……./…].

3.6 If our tender is accepted, we undertake to provide a performance guarantee of […………], as required by Article 11 of the General Conditions.

3.7 Our firm/company [and our subcontractors] has/have the following nationality:

[……………………………………………………………………]

3.8 We are making this application in our own right and [as partner in the consortium led by < name of the leader / ourselves >] for this tender [Lot No]. We confirm that we are not tendering for the same contract in any other form. We confirm, as a partner in the consortium, that all partners are jointly and severally liable by law for the performance of the contract, that the lead partner is authorised to bind, and receive instructions for and on behalf of, each member, that the performance of the contract, including payments, is the responsibility of the lead partner, and that all partners in the joint venture/consortium are bound to remain in the joint venture/consortium for the entire period of the contract's performance.

3.9 We are not in any of the situations excluding us from participating in contracts which are listed in Article 3 of the instructions to tenderers.

3.10 We agree to abide by the ethics clauses in Clause 24 of the instructions to tenderers and, in particular, have no potential conflict of interests or any relation with other candidates or other parties in the tender procedure at the time of the submission of this application.

3.11 We will inform the Central Government Authority immediately if there is any change in the above circumstances at any stage during the implementation of the contract. We also fully recognise and accept that any inaccurate or incomplete information deliberately provided in this application may result in our exclusion from this and other contracts.

3.12 We note that the Contracting Authority is not bound to proceed with this invitation to tender and that it reserves the right to award only part of the contract. It will incur no liability towards us should it do so.
Name and first name: […………………………………………………………………]

Duly authorised to sign this tender on behalf of:
[……………………………………………………………………………………  ..]

Place and date: […………………………………………………………………………]

Stamp of the firm/company:

This tender includes the following annexes:

[Numbered list of annexes with titles]
### FINANCIAL IDENTIFICATION

#### ACCOUNT HOLDER

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#### BANK

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#### REMARKS:

- **BANK STAMP + SIGNATURE** of BANK REPRESENTATIVE (Both Obligatory)
- **DATE + SIGNATURE** of ACCOUNT HOLDER: (Obligatory)
# ADMINISTRATIVE COMPLIANCE GRID

(to be tailored to the specific project. The criteria indicated are those used by the Evaluation Committee.)

<table>
<thead>
<tr>
<th>Tender envelope number</th>
<th>Name of Tenderer</th>
<th>Is language as required? (Y/N)</th>
<th>[Documentary proof in terms of the requirements as per sub-clause 3.4 of the ITT] (Y/N)</th>
<th>[Proof of Financial and Economic Standing as per sub-clause 3.6 of the ITT] (Y/N)</th>
<th>[Proof of Technical Capacity as per sub-clause 3.6 of the ITT] (Y/N)</th>
<th>Overall decision? (Accept / Reject)</th>
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Chairman’s name

Chairman’s signature

Date
EVALUATION MATRIX

Should the tenderer fail to meet any of the Minimum Technical Specifications, the tender will be considered TECHNICALLY NON-COMPLIANT and will be rejected.
## Technical Evaluation Matrix

**Tender Title:** Enhancing the Border Control Capabilities of the Armed Forces of Malta - Procurement of a Fixed Wing Maritime Patrol Aircraft

**Tender Quality Weighting:** 90%
**Tender Price weighting:** 10%

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<th>Minimum Reached</th>
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<th>Weight (b)</th>
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