


CEDEFOP
**European Centre for the Development
of Vocational Training**

DRAFT FRAMEWORK SERVICE CONTRACT

CONTRACT NUMBER – *[complete]*

The European Centre for the Development of Vocational Training, hereinafter referred to as “Cedefop”, which is represented for the purposes of the signature of this contract by **Mrs Ginette Manderscheid, Head of Human Resources**,

of the one part,

and

[official name in full]

*[official legal form]*¹

*[statutory registration number]*²

[official address in full]

[VAT registration number]

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

[The parties identified above and hereinafter collectively referred to as ‘the Contractor’ shall be jointly and severally liable vis-à-vis Cedefop for the performance of this contract.]

of the other part,

HAVE AGREED

the **Special Conditions** and the following Annexes and Specific Contract:

Annex I (a) General Conditions

(b) Model Order Form

Annex II – Tender Specifications (Invitation to Tender No ‘**Provision of ICT training to Cedefop staff**’)

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

Annex IV – Undertaking of confidentiality and non-disclosure for contractor

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

¹ Delete if contractor is a natural person or a body governed by public law.

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

- The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract.
- The terms set out in the General Conditions shall take precedence over those in the model order form and model specific contract (Annex I)
- The terms set out in the model order form and model specific contract (Annex I) shall take precedence over those in the other Annexes.
- The terms set out in the Tender Specifications (Annex II) shall take precedence over those in the Tender (Annex III).
- The terms set out in the Contract shall take precedence over those in the order forms and specific contracts.
- The terms set out in the specific contracts shall take precedence over those in the Requests for Services.
- The terms set out in the Requests for Services shall take precedence over those in the specific tenders.

Subject to the above, the several instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by Cedefop, subject to the rights of the Contractor under Article I.7 should he dispute any such instruction.

I – SPECIAL CONDITIONS

ARTICLE I.1 - SUBJECT

- I.1.1** The subject of the Contract is “**Provision of ICT training to Cedefop staff**”.
- I.1.2** Signature of the Contract imposes no obligation on Cedefop to purchase. Only implementation of the Contract through order forms is binding on Cedefop.
- I.1.3** Once implementation of the Contract has commenced, the Contractor shall provide the services in accordance with all terms and conditions of the Contract.

ARTICLE I.2 - DURATION

- I.2.1** The Contract shall enter into force on the date on which it is signed by the last contracting party.
- I.2.2** Under no circumstances may implementation commence before the date on which the Contract enters into force. Execution of the tasks may under no circumstances begin before the date on which the order form enters into force.
- I.2.3** The Contract is concluded for a period of **twelve (12) months** with effect from the date on which it enters into force. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated.
- I.2.4** The order forms shall be returned signed before the Contract to which they refer expires.

The Contract shall continue to apply to such order forms after its expiry. They shall be executed no later than **6 (six) months**.

I.2.5 Contract renewal

The Contract shall be renewed automatically up to **three (3) times** under the same conditions, unless written notification to the contrary is sent by one of the contracting parties and received by the other before expiry of the period indicated in Article I.2.3. Renewal does not imply any modification or deferment of existing obligations.

ARTICLE I.3 – CONTRACT PRICES

- I.3.1** The maximum envelope of the Contract shall be EUR [*amount in figures and in word*]. The prices of the services shall be as listed in Annex II.

The price indicated in the order form covers any fees payable to the Contractor in relation to the vesting of rights in the Union and where applicable the transfer of rights to the Union and any use of the results by Cedefop.

- I.3.2** Prices shall be expressed in EUR.

I.3.3 Price revision

Prices shall be fixed and not subject to revision for implementation during the first two years of duration of the Contract.

At the beginning of the **third year and or fourth year**, 80% of each price may be revised upwards or downwards, if such revision is requested by one of the contracting parties by registered letter no later than three (3) months before the anniversary of the date on which it was signed. Cedefop shall purchase on the basis of the prices in force on the date on which order forms or specific contracts are signed. Such prices shall not be subject to revision.

This revision shall be determined by the trend in the harmonised indices of consumer prices (HICP) "MUICP" published by the Publications Office of the European Union in the Eurostat monthly 'Data in Focus' publication at <http://www.ec.europa.eu/eurostat/>.

Revision shall be calculated in accordance with the following formula:

$$Pr = Po (0,2 + 0,8 \frac{Ir}{Io})$$

where:

- Pr = revised price;
- Po = price in the original tender;
- Io = index for the month corresponding to the final date for submission of tenders;
- Ir = index for the month corresponding to the date of receipt of the letter requesting a revision of prices.

ARTICLE I.4 – PAYMENTS AND IMPLEMENTATION OF THE CONTRACT

Payments under the Contract shall be made in accordance with Article II.16; Article II.15 shall not apply to this Contract. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted. Payment requests may not be made if payments for previous periods have not been executed as a result of default or negligence on the part of the Contractor.

I.4.1 Single framework contract

Within seven (7) working days of an order form being sent by Cedefop to the Contractor, Cedefop shall receive the completed order form back, duly signed and dated.

The period allowed for the execution of the tasks shall start to run on the date of last contracting party's signature.

I.4.2 Payments

Within **sixty (60) days** of completion of the tasks referred to in each order form, the Contractor shall submit an admissible invoice, indicating the reference number of the Contract and of the order form to which it refers, for payment.

Cedefop shall have (20) twenty days from receipt to approve or reject the invoice(s), and the Contractor shall have (20) twenty days in which to submit additional information or new invoice(s).

Payment shall be made within **thirty (30) days** of the receipt of the invoice.

I.4.5 Information to be shown on invoices**Invoices must state:**

- the price in EUR and the total price excluding VAT
- that the amount invoiced is exempt from VAT under the Articles 3 and 4 of the Protocol on Privileges and Immunities of the European Communities (PPI). The current provisions in Greece shall apply to VAT exemption.

[For contractors based in Greece, invoices will include VAT which is paid by Cedefop and later reimbursed by the State, with the exception of purchase of cars or purchase or lease of buildings or parts thereof or of land for which direct exemption is granted by the State as per Art. 3.3 of Law 2337/95 (Seat Agreement).]

[For contractors established in other countries exemption is direct (invoices are submitted without VAT).]

- the VAT amount in EUR separately
- the IBAN code and the BIC as identified in the contract (see article I.5 below); in case of change, prior information and a new Financial Identification Form must be duly addressed to Cedefop before the dispatch of the invoice.

ARTICLE I.5 – BANK ACCOUNT

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

Name of bank:

Address of branch in full:

Exact designation of account holder:

Full account number including codes:

IBAN code:

BIC code:

ARTICLE I.6 – GENERAL ADMINISTRATIVE PROVISIONS

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

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

Communications shall be sent to the following addresses:

Cedefop:

European Centre for the Development of Vocational Training (Cedefop)
Procurement Service (C4T)
Office 4.19
PO Box 22427
GR – 55 102 Thessaloniki
Fax: +30 2310 490028 / e-mail: c4t-services@cedefop.europa.eu

Contractor:

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

ARTICLE I.7 – APPLICABLE LAW AND SETTLEMENT OF DISPUTES

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

I.7.1a Mediation

Without prejudice to Article I.7.2, in the event that any dispute arises between the parties resulting from the interpretation or application of the Contract and the dispute is not resolved by negotiation, the parties may agree to submit the dispute to mediation.

If a party to the dispute gives written notice to the other parties of its desire to commence mediation, and the other parties agree in writing, the parties shall jointly appoint a mutually acceptable mediator within two weeks of the date of the said written agreement. If the parties are unable to agree upon the appointment of a mediator within that time period, any party may apply to the Court of Justice of the European Union and in particular to the General Court, for the appointment of a mediator.

The mediator's written proposal or his written conclusion stating that no proposal can be made shall be produced within two months of the date of the written agreement by the other parties to commence mediation. The mediator's proposal or conclusion shall not be binding for the parties, who reserve the right to bring the dispute before the courts, as per Article I.7.2.

Within two weeks of the date of notification of the proposal by the mediator, the parties can conclude a written agreement, duly signed by all parties, based on the proposal.

The parties further agree to share equally the costs of mediation by the mediator, which costs will not include any other costs incurred by a party in connection with the mediation.

- I.7.2** Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the Court of Justice of the European Union.

ARTICLE I.8 – DATA PROTECTION

- I.8.1 Any personal data included in or relating to the Contract, including its performance shall be processed pursuant to Regulation (EC) 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.
- I.8.2 The contractor shall only process personal data on the instructions of Cedefop, and shall ensure that any person concerned by the processing shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete.
- I.8.3 Should the data subject have any queries concerning the processing of his personal data, he shall address them to the Agency directly.
- I.8.4 The data subject shall have the right of recourse at any time to the European Data Protection Supervisor. The same rights apply to the Contractors in its relationship with the Agency.

ARTICLE I.9 - USE OF THE RESULTS - NOT APPLICABLE

ARTICLE I.10 – TERMINATION BY EITHER CONTRACTING PARTY

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

ARTICLE I.11– CONTRACT CONCLUDED DURING STANDSTILL PERIOD

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

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

ARTICLE I.12 – OTHER SPECIAL CONDITIONS**I.12.1 Confidentiality of information**

Notwithstanding the provisions of Article II.4, the Contractor must sign the “Undertaking of Confidentiality and Non-Disclosure for the Contractor” found in Annex IV.

I.12.2 Contract supervision

The following persons are empowered to supervise the performance of the contract:

For Cedefop:

For the Contractor:

SIGNATURES

For the Contractor,

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

For Cedefop,

[forename/surname/function]

signature[s]: _____

signature[s]: _____

Done at, [date]

Done at Thessaloniki,[date]

In duplicate in English.

ANNEX I (a)

II – GENERAL CONDITIONS FOR SERVICE FRAMEWORK CONTRACTS

ARTICLE II.1 – PERFORMANCE OF THE CONTRACT

- II.1.1** The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.
- II.1.2** The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.
- II.1.3** Without prejudice to Article II.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.
- II.1.4** The Contractor must ensure that any staff performing the Contract has the professional qualifications and experience required for the execution of the tasks assigned to him.
- II.1.5** The Contractor shall neither represent Cedefop nor behave in any way that would give such an impression. The Contractor shall inform third parties that he does not belong to the European public service.
- II.1.6** The Contractor shall have sole responsibility for the staff who execute the tasks assigned to him.
- The Contractor shall make provision for the following employment or service relationships with his staff:
- staff executing the tasks assigned to the Contractor may not be given orders direct by Cedefop;
 - Cedefop may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of Cedefop any right arising from the contractual relationship between Cedefop and the Contractor.
- II.1.7** In the event of disruption resulting from the action of a member of the Contractor's staff working [on Cedefop premises] [on implementation of the contract] [*delete as appropriate*] or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. Cedefop shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff.
- II.1.8** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and at his own initiative record it and report it to Cedefop. The report shall include

a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.

- II.1.9** Should the Contractor fail to perform his obligations under the Contract, Cedefop may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, Cedefop may claim compensation or impose liquidated damages provided for in Article II.12.

ARTICLE II.2 – LIABILITY

- II.2.1** Cedefop shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of Cedefop.
- II.2.2** The Contractor shall be liable for any loss or damage sustained by Cedefop in performance of the Contract, including in the event of subcontracting under Article II.6 but only up to three times the total amount of the Contract. Nevertheless, if the damage or loss is caused by the gross negligence or wilful misconduct of the Contractor or by its employees, the Contractor shall remain liable without any limitation as to the amount of the damage or loss.
- II.2.3** The Contractor shall provide compensation in the event of any action, claim or proceeding brought against Cedefop by a third party as a result of damage caused by the Contractor in performance of the Contract.
- II.2.4** In the event of any action brought by a third party against Cedefop in connection with performance of the Contract, the Contractor shall assist Cedefop. Expenditure incurred by the Contractor to this end may be borne by Cedefop.
- II.2.5** The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the [industry] [market] [*delete as appropriate*]. A copy of all the relevant insurance contracts shall be sent to Cedefop should it so request.

ARTICLE II.3 - CONFLICT OF INTERESTS

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

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

II.3.2 The Contractor shall abstain from any contact likely to compromise his independence.

II.3.3 The Contractor declares:

- that he has not made and will not make any offer of any type whatsoever from which an unjustified advantage can be derived under the Contract,
- that he has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Contract.

II.3.4 The Contractor shall pass on all the relevant obligations in writing to his staff, board, and directors as well as to third parties involved in performance of the Contract.

ARTICLE II.4 – CONFIDENTIALITY

II.4.1. The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.

II.4.2. The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

ARTICLE II.5 - DATA PROTECTION

II.5.1 The Contractor shall have the right of access to his/her personal data and the right to rectify any such data. Should the Contractor have any queries concerning the processing of his/her personal data, s/he shall address them to the entity acting as data controller provided for in Article I.8.

II.5.2 The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

II.5.3 Where the Contract requires the processing of personal data by the Contractor, the Contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data, and the means by which the data subject may exercise his/her rights.

II.5.4 The Contractor shall limit access to the data to the staff strictly necessary for the performance, management and monitoring of the Contract.

II.5.5 The Contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:

- a) prevent any unauthorised person from having access to computer systems processing personal data, and especially:

- aa) unauthorised reading, copying, alteration or removal of storage media;
- ab) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;
- ac) unauthorised use of data-processing systems by means of data transmission facilities;
- b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
- c) record which personal data have been communicated, when and to whom;
- d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the contracting institution or body;
- e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- f) design its organisational structure in such a way that it meets data protection requirements.

ARTICLE II.6 – SUBCONTRACTING

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

ARTICLE II.7 – AMENDMENTS

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

ARTICLE II.8 – ASSIGNMENT

- II.8.1** The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from Cedefop.
- II.8.2** In the absence of such authorisation, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on Cedefop.

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

- II.9.1** The Contractor shall authorise Cedefop to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in the Contract, in particular the identity of the Contractor, the subject matter, the duration and the amount paid. Where personal data is concerned, Article I.8 and II.5 shall apply.

- II.9.2** Unless otherwise provided by the Special Conditions, Cedefop shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to distribute or publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from Cedefop.
- II.9.3** Any distribution or publication of information relating to the Contract or use of outcome of the implementation of the Contract and provided as such by the Contractor shall require prior written authorisation from Cedefop and, if so requested, shall mention that it was produced within a contract with Cedefop. It shall state that the opinions expressed are those of the Contractor only and do not represent Cedefop's official position.
- II.9.4** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless Cedefop has specifically given prior written authorisation to the contrary.

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

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

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

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

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

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

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

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

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

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

- II.10.4** The Contractor retains all right, title and interest in pre-existing rights not fully vested into the Union in line with Article I.9.2, and hereby grants the Union for the requested period a licence to use the pre-existing rights to the extent necessary to use the delivered results.
- II.10.5** The Contractor shall ensure that delivered results are free of rights or claims from third parties including in relation to pre-existing rights, for any use envisaged by Cedefop. This does not concern the moral rights of natural persons and rights referred to in Article II.10.4.
- II.10.6** The Contractor shall clearly point out all quotations of existing textual works made by the Contractor. The complete reference should include as appropriate: name of the author, title of the work, date of publishing, date of creation, place of publication, address of publication on internet, number, volume and other information allowing to identify the origin easily.
- II.10.7** The Contractor shall clearly indicate all parts to which there are pre-existing rights and all parts of the result originating from external sources: parts of other documents, images, graphs, tables, data, software, technical inventions, know-how etc. (delivered in paper, electronic or other form).
- For non-textual results or results provided in electronic form only, the description, instruction or information document shall list all parts coming from external sources: IT development tools, routines, subroutines and/or other programs ("background technology"), concepts, designs, installations or pieces of art, data, source or background materials or any other parts of external origin.
- II.10.8** If Cedefop so requires, the Contractor shall provide proof of ownership or rights to use all necessary rights to the materials referred to in Article II.10.7.
- II.10.9.** By delivering the results the Contractor confirms that the creators undertake not to oppose their names being recalled when the results are presented to the public and confirms that the results can be divulged.
- The Contractor shall possess all relevant agreements of the creator and provide proof by way of documentary evidence.
- II.10.10.** By delivering the results the Contractor warrants that the above transfer of rights does not violate any law or infringe any rights of others and that he possesses the relevant rights or powers to execute the transfer. He also warrants that he has paid or has verified payment of all fees including fees to collecting societies, related to the final results.
- II.10.11.** The Contractor shall indemnify and hold the Union harmless for all damages and cost incurred due to any claim brought by any third party including creators and intermediaries for any alleged breach of any intellectual, industrial or other property right based on the Union's use of the works and in relation to which the Contractor has granted the Union user rights.

ARTICLE II.11 – FORCE MAJEURE

- II.11.1** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence.

Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.

- II.11.2** Without prejudice to Article II.1.8, if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.11.3** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.11.4** The contracting parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II.12 – LIQUIDATED DAMAGES

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to Cedefop's right to terminate the Contract, Cedefop may decide to impose liquidated damages per calendar day of delay according to the following formula:

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

V is the price of the relevant purchase;

d is the duration specified in the relevant order form or specific contract expressed in days

The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by Cedefop within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion. Cedefop and the Contractor expressly acknowledge and agree that any sums payable under this article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

ARTICLE II.13 – SUSPENSION OF THE CONTRACT

Without prejudice to Cedefop's right to terminate the Contract, where the Contract is subject to substantial error, irregularity or fraud Cedefop may suspend execution of the Contract, pending order forms or specific contracts or any part thereof.

Suspension shall take effect on the day the Contractor receives notification by registered letter with acknowledgment of receipt or equivalent, or at a later date where the notification so provides. Cedefop shall as soon as possible give notice to the Contractor to resume the service suspended or inform that it is proceeding with contract termination. The Contractor shall not be entitled to claim compensation on account of suspension of the Contract, of the order forms or specific contracts, or of part thereof.

ARTICLE II.14 – TERMINATION BY CEDEFOP

II.14.1 Cedefop may terminate the Contract, a pending order form or a specific contract in the following circumstances:

- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
- (c) where Cedefop has evidence or seriously suspects the Contractor or any related entity or person, of professional misconduct;
- (d) where Cedefop has evidence or seriously suspects the Contractor or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- (e) where Cedefop has evidence or seriously suspects the Contractor or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the Contract;
- (f) where the Contractor is in breach of his obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by Cedefop as a condition of participation in the Contract procedure or failed to supply this information;
- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in Cedefop's opinion, have a significant effect on the performance of the Contract;
- (i) where execution of the tasks under a pending order form or a specific contract has not actually commenced within fifteen days³ of the date foreseen, and the new date proposed, if any, is considered unacceptable by Cedefop;
- (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- (k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations;
- (l) when due to the termination of the contract with one or more of the contractors there is no minimum required competition within the multiple framework contract with reopening of competition.

II.14.2 Prior to termination under point c), d), e), h) or k), the Contractor shall be given the opportunity to submit his observations.

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

II.14.3 In case of force majeure, notified in accordance with Article II.11, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period laid down in Article I.2.3.

II.14.4 Consequences of termination

In the event of Cedefop terminating the Contract or a pending order form or specific contract in accordance with this article and without prejudice to any other measures provided for in the Contract, the Contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted service.

On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

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

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

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

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

ARTICLE II.15 – INVOICING AND PAYMENTS [- NOT APPLICABLE]

II.15.1 Pre-financing guarantee

Where required by Article I.4 or if the pre-financing is over €150 000, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) to cover pre-financing under the Contract. Such guarantee may be replaced by a joint and several guarantee by a third party.

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

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

The guarantee shall specify that it enters into force at the latest on the date on which the Contractor receives the pre-financing. The guarantee shall be retained until the pre-financing has been cleared against interim payments or payment of the balance to the Contractor. It shall be released the following month or, in the absence of such clearing, four months after the issuance of a corresponding debit note. The cost of providing such guarantee shall be borne by the Contractor.

II.15.2 Interim payments and payment of the balance

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

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

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

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

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

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

II.15.3. Payment currency and costs

Payments are executed in the currency of the contract, as a general rule, the Euro.

Costs of the transfer are borne in the following way:

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

ARTICLE II.16 – GENERAL PROVISIONS CONCERNING PAYMENTS

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

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

Cedefop shall notify the Contractor accordingly and set out the reasons for the suspension by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter.

The remainder of the period referred to in Article I.4 shall begin to run again once the suspension has been lifted.

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

ARTICLE II.17 – TAXATION

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

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

II.17.3 The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.

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

ARTICLE II.18 - REIMBURSEMENTS

II.18.1 Where provided by the Special Conditions or by Annex II, Cedefop shall reimburse the expenses that are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets.

II.18.2 Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.

II.18.3 Travel expenses shall be reimbursed as follows:

- a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
- b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
- c) travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;
- d) travel outside Union territory shall be reimbursed under the general conditions stated above provided Cedefop has given its prior written agreement.

II.18.4 Subsistence expenses shall be reimbursed on the basis of a daily allowance as follows:

- a) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;

- b) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;
 - c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including accommodation, meals, local transport, insurance and sundries;
 - d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article I.3.
- II.18.5** The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided Cedefop has given prior written authorisation.
- II.18.6.** Conversion between the euro and another currency shall be made using the daily euro exchange rate published in the C series of the *Official Journal of the European Union* of the day on which the expense was made or, failing that, at the monthly accounting rate established by the Commission and published on its website.

ARTICLE II.19 – RECOVERY

- II.19.1** If total payments made exceed the amount actually due or if recovery is justified in accordance with the terms of the Contract, the Contractor shall reimburse the appropriate amount in euro on receipt of the debit note, in the manner and within the time limits set by Cedefop.
- II.19.2** In the event of failure to pay by the deadline specified in the debit note, the sum due shall bear interest at the rate indicated in Article II.16.3. Interest shall be payable from the calendar day following the due date up to the calendar day on which the debt is repaid in full.
- II.19.3** Cedefop may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on the Union or the European Atomic Energy Community that is certain, of a fixed amount and due. Cedefop may also claim against the guarantee, where provided for.

ARTICLE II.20 – CHECKS AND AUDITS

- II.20.1** Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the Union from signature of the Contract up to five years after payment of the balance of the last implementation.
- II.20.2** Cedefop or an outside body of its choice shall have the same rights as the Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to five years after payment of the balance of the last implementation.
- II.20.3** In addition, the European Anti-Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance of the last implementation.

ANNEX I (b)

				FRAMEWORK CONTRACT ORDER FORM			
DG and administrative unit: Tel.: E-mail:		Order number:		(Name and address of supplier)			
		Currency of payment: EUR					
		Date and reference of the offer:					
This order is governed by the provisions of Framework Contract No _____ in force from _____ to _____							
LISTING OF THE GOODS / SERVICES and code				UNIT	QUANTITY	PRICE in € UNIT PRICE TOTAL	
Pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union, Cedefop is exempt from all taxes and dues, including value added tax, on payments due in respect of this Contract. For intra-community purchases, the mention "VAT Exemption / European Union / Article 151 of Council Directive 2006/112/EC" should be added on the invoice. (1)				Packaging Insurance Transport Assembly VAT			
				TOTAL :			
Place of delivery or implementation and/or Incoterm:				Contractor's signature Name: Position: Date:			
Final date of delivery or implementation:							
Terms of payment:							
Guarantee:							
Date of issue: Signature [name and position]:							

(1) TO BE DELETED IF THE CONTRACTOR IS BASED IN GREECE.

ANNEX II

TENDER SPECIFICATIONS (INVITATION TO TENDER)

ANNEX III

CONTRACTOR'S TENDER

ANNEX IV

Undertaking of Confidentiality and Non-Disclosure for the Contractor

Following the award by Cedefop to(contractor) of the **framework service contract No** (hereinafter called “contract”) and for the implementation of this contract, Cedefop will provide to(contractor) access to internal information and personal data which includes but is not limited to:

Without prejudice to the relevant provisions of the above-mentioned Framework Service Contract, in particular Article II.4,(contractor) reiterates its commitment to treat in the strictest confidence and not make use of or disclose to third parties any information and/or documents which are linked to the performance of the tasks undertaken in the context of the aforementioned contract without the prior written authorisation by Cedefop. The non-disclosure of all matters related to the aforementioned contract includes also information and/or documents obtained prior to the date of signature of this undertaking.(contractor) shall continue to be bound by this undertaking after completion of the tasks in subject assigned by Cedefop.

.....(contractor) shall ensure that each member of its staff, board and directors will respect the confidentiality of any information which is linked, directly or indirectly, to the tasks related to the aforementioned contract, they will comply with [Directive 95/46/EC on data protection](#) and they will not disclose to third parties or use for their own benefit or that of any third party any information and/or document not available publicly, even after completion of the tasks.

For this purpose,(contractor) will obtain from each member of its staff, board and directors an undertaking of confidentiality in this respect.

Should(contractor) and/or its employees assigned to Cedefop breach this undertaking of confidentiality and non-disclosure,(contractor) shall be liable for any damages caused to Cedefop according to the provisions foreseen by the relevant legislation in force.

Signed by the legal representative of(contractor)

Name + function:

Signature + stamp

Date of signature