



DRAFT SERVICE CONTRACT FOR THE
PERFORMANCE OF A WIRELESS
COMMUNICATION STUDY

CONTRACT NUMBER – SJU/LC/...-CTR

The SESAR JOINT UNDERTAKING,

Hereinafter referred to as "SJU", a joint undertaking in the meaning of Article 171 of the Treaty establishing the European Community and set up by Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) as amended by Council Regulation (EC) No 1361/2008 of 16 December 2008,

Located at Avenue de Cortenbergh, 100
B-1040 Brussels,
Belgium

Represented for the purpose of the signature of this Contract by Mr. Patrick KY, its Executive Director,

OF THE ONE PART,

AND

[official name in full of the Contractor or official name in full of the Coordinator in case of Consortium without legal existence]

(hereinafter referred to as "the Contractor" *or "the Coordinator", in case of Consortium without legal existence*), a [official legal form (Delete if contractor is a natural person or a body governed by public law.)] duly registered under No [statutory registration number 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]) and existing under the laws of ..., having its registered offices and principal place of business located at:
[official address in full]

Represented for the purposes of the signature of this contract by [name in full and function,]

OF THE OTHER PART.

The SJU and the Contractor being hereinafter individually referred to as the "Party" and collectively referred to as the "Parties",

HAVE AGREED

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

Annex I – Terms of Reference (Invitation to Tender No.SJU/0026-CFP) attached hereto,

Annex II – Contractor's Tender (No [complete] dated [complete]),

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

Annex III – Accession to the Contract *in case of Consortium without legal existence*

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

Subject to the above, the several instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be

explained or rectified by a written instruction issued by the SJU, subject to the rights of the Contractor under Article I.7, should it dispute any such instruction.

I – SPECIAL CONDITIONS

ARTICLE I.1 - SUBJECT

I.1.1 The subject of the Contract is to set forth the terms and conditions according to which the Contractor undertakes to perform and deliver a wireless communication study to the SJU related in particular to *[insert title of the lot(s) covered by this contract]* (hereinafter referred to as the “Services”) in accordance with Annex I attached hereto.

I.1.2¹ The implementation of the Contract shall be performed by the Consortium. The Consortium is composed of the Coordinator:

[Name of the Coordinator]

and the following legal entities, which shall accede to the contract as “Contractor(s)” in accordance with the procedure referred to in Article I.1.3 hereunder, assuming the rights and obligations established by the Contract with effect from the date on which it enters into force:

[Full name and legal form of the Contractor(s), national registration number if any established in (full address city/state/province/country), represented by (name of legal representative) (function), [and/or (name of legal representative), (function)], or her/his/their authorised representative]

The Contractor(s) and the Coordinator form together the consortium (the “Consortium”). The Coordinator and the Contractor(s) are collectively referred as “the Consortium members” and individually as the “Consortium member”.

I.1.3 The Coordinator shall send to the SJU one duly completed and signed Annex III per Contractor at the latest 45 calendar days after the entry into force of the Contract.

I.1.4 Should any legal entity identified above, fail or refuse to accede to the Contract within the deadline established in the previous paragraph, the SJU is no longer bound by its offer to the said legal entity(ies). The Consortium may propose to the SJU, within the time-limit to be fixed by the latter, appropriate solutions to ensure the provision of the Services.

I.1.5 The Coordinator and the Contractor(s) are deemed to have concluded a consortium agreement (the “Consortium Agreement”) regarding the internal organisation of the Consortium.

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 execution of the Services may begin before the date on which the Contract enters into force. In case Services are launched before the date

¹ In case of a contract placed with a Consortium without legal existence

of entry into force of the Contract, the costs incurred by the Contractor for these services will not be reimbursed by the SJU.

- 1.2.3** The Contract is concluded for a period of *[number in figures and in words]* 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.

ARTICLE I.3 – PRICES

- 1.3.1** The fixed and firm price to be paid by the SJU under the Contract shall be **EURO** *[amount in figures and in words]* covering all Services provided.
- 1.3.2** Prices shall be expressed in EURO, include all direct as well as indirect charges, general administrative overhead and profit as well as travel and subsistence expenses.
- 1.3.3** The amount referred to in Article I.3.1 hereabove is a **fixed and firm price** and therefore shall not be subject to any adjustment or revision by reason of the actual costs incurred by the Contractor in the performance of the Contract for the overall duration of the Contract.

ARTICLE I.4 – PAYMENT PERIODS AND FORMALITIES

Payments under the Contract shall be made in accordance with Article II.4.

I.4.1 Progress payment

The request for progress payment shall be admissible if accompanied by:

- the relevant deliverables in accordance with Annex I and Article II.4 below, and
- the relevant invoices,

provided that the SJU has formally approved the satisfactory delivery and acceptance of the relevant deliverables.

The SJU shall have fifteen (15) calendar days from receipt to approve or reject the deliverables, and the Contractor shall have ten (10) calendar days in which to submit additional information or a new deliverable item in accordance with the SJU's requirements.

Within thirty (30) calendar days of the date on which the documents accompanying a request for payment are approved by the SJU, a progress payment corresponding to the relevant invoice shall be made.

I.4.2 Final payment

The request for a final payment shall be admissible if accompanied by:

- the final version of the deliverable items described in Annex I and Article II.4 below, and
- the relevant invoices,

provided that the SJU has formally approved the satisfactory delivery and acceptance of all deliverable items due under this Contract.

The SJU shall have fifteen (15) calendar days from receipt to approve or reject the deliverable items due under this Contract, and the Contractor shall have ten (10) calendar days in which to submit additional information or a new deliverable item in accordance with the SJU's requirements.

Within thirty (30) calendar days of the date on which the documents accompanying a request for payment are approved by the SJU and upon fulfilment of all contractual obligations under this Contract by the Contractor, the final payment corresponding to the relevant invoices shall be made.

I.4.3 Milestone Payment Plan

The SJU payments shall be made to the Contractor by bank transfer and according to the following Milestone Payment Plan:

Milestone Description	Estimated Schedule Date	Amount (in €)
Progress payment upon acceptance by the SJU of TBD	TBD	TBD
Final payment upon acceptance by the SJU of all deliverables due under the Contract and Contractor's fulfilment of all its obligations	TBD	TBD

ARTICLE I.5 – BANK ACCOUNT

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

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

ARTICLE I.6 – GENERAL ADMINISTRATIVE PROVISIONS

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

Communications shall be sent to the following addresses:

SJU:

SESAR JOINT UNDERTAKING
100, Avenue de Cortenbergh
B-1000 Brussels
Belgium

Any technical matters shall be addressed to:

Mr Tel.: +.....
..... Fax: +.....
..... E-mail:@sesarju.eu

with copy to the Legal Affairs and Contract Unit representative nominated hereunder.

Any financial, contractual and administrative matters shall be addressed to:

Mr Tel.: +.....
..... Fax: +.....
..... E-mail:@sesarju.eu

with copy to the Technical representative nominated hereabove.

Contractor:

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Any technical matters shall be addressed to:

Mr Tel.: +.....
..... Fax: +.....
..... E-mail:@.....

with copy to the representative for financial, contractual and administrative matters nominated hereunder.

Any financial, contractual and administrative matters shall be addressed to:

Mr Tel.: +.....
..... Fax: +.....
..... E-mail:@.....

with copy to the Technical representative nominated hereabove.

ARTICLE 1.7 – APPLICABLE LAW AND SETTLEMENT OF DISPUTES

- 1.7.1** The Contract shall be governed by the national substantive law of Belgium.
- 1.7.2** Any dispute between the Parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the courts of Brussels (Belgium).

ARTICLE 1.8 – TERMINATION AND TRANSITION

At the end of this Contract and irrespective of the cause of termination, the current Contractor shall exercise its best efforts and cooperation to allow an orderly and efficient phase-in of its successor. The phase-out of the current Contractor shall be included in the Contractor's price and shall have a maximum duration of three (3) months.

II – GENERAL CONDITIONS

ARTICLE II. 1 – PERFORMANCE OF THE CONTRACT

- II.1.1** The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on it, 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 it are to be executed.
- II.1.3** Without prejudice to Article II.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.
- II.1.4** The Contractor must ensure that any staff performing the Contract have the professional qualifications and experience required for the execution of the tasks assigned to it.
- II.1.5** The Contractor shall neither represent the SJU nor behave in any way that would give such an impression. The Contractor shall inform third parties that it does not belong to the European public service.
- II.1.6** The Contractor shall have sole responsibility for the staff who execute the tasks assigned to it. The Contractor shall make provision for the following employment or service relationships with its staff:
- staff executing the tasks assigned to the Contractor may not be given orders direct by the SJU;
 - the SJU may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the SJU any right arising from the contractual relationship between the SJU 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 the SJU premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him/her without delay. The SJU 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 it resulting from the replacement of staff in accordance with this Article.
- II.1.8** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on its own initiative record it and report it to the SJU. 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 its obligations under the Contract in accordance with the provisions laid down therein, the SJU may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, the SJU may impose penalties or liquidated damages provided for in Article II.16.

ARTICLE II. 2 – LIABILITY

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

ARTICLE II. 3 - CONFLICT OF INTERESTS

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

The SJU 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 its staff, board and directors are not placed in a situation which could give rise to conflict of interests. Without prejudice to Article II.1 the Contractor shall replace, immediately and without compensation from the SJU, any member of its staff exposed to such a situation.

- II.3.2** The Contractor shall abstain from any contact likely to compromise its independence.

- II.3.3** The Contractor declares:

that it has not made and will not make any offer of any type whatsoever from which an advantage can be derived under the Contract,

that it has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any Party whatsoever,

where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, in as much 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 its staff, board, and directors as well as to third parties involved in performance of the Contract. A copy of the instructions given and the undertakings made in this respect shall be sent to the SJU should it so request.

ARTICLE II. 4 – INVOICING AND PAYMENTS

II.4.1 Pre-financing:

Where required by Article I.4, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) equal to the amount indicated in the same Article to cover pre-financing under the Contract. Such guarantee may be replaced by a joint and several guarantee by a third Party.

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

The guarantor shall stand as first-call guarantor and shall not require the SJU 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 SJU shall release the guarantor from its obligations as soon as the Contractor has demonstrated that any pre-financing has been covered by equivalent work. The guarantee shall be retained until the pre-financing has been deducted from interim payments or payment of the balance to the Contractor. It shall be released the following month. The cost of providing such guarantee shall be borne by the Contractor.

II.4.2 Interim payment:

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

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

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

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

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

Where the SJU requests a new report because the one previously submitted has been rejected, this shall be submitted within the period of time indicated in the Special Conditions.

The new report shall likewise be subject to the above provisions.

II.4.3 Payment of the balance:

Within sixty (60) days of completion of the Activities referred to in Annex I, the Contractor shall submit to the SJU a formal request for payment accompanied by those of the following documents, which are provided for in the Special Conditions:

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

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

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

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

Where the SJU requests a new report because the one previously submitted has been rejected, this shall be submitted within the period of time indicated in the Special Conditions.

The new report shall likewise be subject to the above provisions.

ARTICLE II. 5 – GENERAL PROVISIONS CONCERNING PAYMENTS

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

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

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

- II.5.3** In the event of late payment the Contractor may claim interest within two (2) 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 (7) percentage points (*“the margin”*). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment. Suspension of payment by the SJU may not be deemed to constitute late payment.

ARTICLE II. 6 – RECOVERY

- II.6.1** If total payments made exceed the amount actually due or if recovery is justified in accordance with the terms of the Contract, the Contractor shall reimburse the appropriate amount in EURO on receipt of the debit note, in the manner and within the time limits set by the SJU.
- II.6.2** In the event of failure to pay by the deadline specified in the request for reimbursement, the sum due shall bear interest at the rate indicated in Article II.5.3. Interest shall be payable from the calendar day following the due date up to the calendar day on which the debt is repaid in full.
- II.6.3** In the event of failure to pay by the deadline specified in the request for reimbursement, the SJU may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on the Communities that is certain, of a fixed amount and due. The SJU may also claim against the guarantee, where provided for.

ARTICLE II. 7 - REIMBURSEMENTS

- II.7.1** Where provided by the Special Conditions or by Annex I, the SJU 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.7.2** Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.
- II.7.3** Travel expenses shall be reimbursed as follows:
- a)** travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
 - b)** travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
 - c)** travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;
 - d)** travel outside Community territory shall be reimbursed under the general conditions stated above provided the SJU has given its prior written agreement.

- II.7.4** Subsistence expenses shall be reimbursed on the basis of a daily allowance as follows:
- a) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;
 - b) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;
 - c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including accommodation, meals, local transport, insurance and sundries;
 - d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article I.3.
- II.7.5** The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the SJU has given prior written authorisation.

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

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

ARTICLE II. 9 – CONFIDENTIALITY

- II.9.1.** The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the Activities.
- II.9.2.** The Contractor shall obtain from each member of its 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 Activities 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 Activities.

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

- II.10.1** The Contractor shall authorise the SJU to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article II.9 shall apply.
- II.10.2** Unless otherwise provided by the Special Conditions, the SJU shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the SJU.

- II.10.3** Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from the SJU and shall mention the amount paid by the European Community. It shall state that the opinions expressed are those of the Contractor only and do not represent the SJU's official position.
- II.10.4** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the SJU has specifically given prior written authorisation to the contrary.

ARTICLE II. 11 – TAXATION

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

ARTICLE II. 12 – FORCE MAJEURE

- II.12.1** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the Parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.
- II.12.2** Without prejudice to the provisions of Article II.1.8, if either Party is faced with force majeure, it shall notify the other Party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.12.3** Neither 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 its contractual obligations owing to force majeure, it shall have the right to remuneration only for tasks actually executed.
- II.12.4** The Parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II. 13 – SUBCONTRACTING

- II.13.1** The Contractor shall not subcontract without prior written authorisation from the SJU nor cause the Contract to be performed in fact by third parties.

II.13.2 Even where the SJU authorises the Contractor to subcontract to third parties, it shall none the less remain bound by his obligations to the SJU under the Contract and shall bear exclusive liability for proper performance of the Contract.

II.13.3 The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the SJU is entitled by virtue of the Contract, notably Article II.16.

ARTICLE II. 14 – ASSIGNMENT

II.14.1 The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the SJU.

II.14.2 In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the SJU.

ARTICLE II. 15 – TERMINATION BY THE SJU

II.15.1 The SJU may terminate the Contract in the following circumstances:

- (a) where the Contractor is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) where the Contractor has been convicted of an offence concerning its professional conduct by a judgment which has the force of *res judicata*;
- (c) where the Contractor has been guilty of grave professional misconduct proven by any means which the SJU can justify;
- (d) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
- (e) where the SJU seriously suspects the Contractor of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) where the Contractor is in breach of its obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by the SJU as a condition of participation in the Contract procedure or failed to supply this information;
- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the SJU's opinion, have a significant effect on the performance of the Contract;
- (i) where execution of the Activities has not actually commenced within fifteen (15) days of the date foreseen, and the new date proposed, if any, is considered unacceptable by the SJU;
- (j) where the Contractor is unable, through its 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 its contractual obligations.

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

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

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

II.15.4 Consequences of termination:

In the event of the SJU terminating the Contract in accordance with this Article and without prejudice to any other measures provided for in the Contract, the Contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce its commitments. It shall draw up the documents required by the Special Conditions for the Activities executed up to the date on which termination takes effect, within a period not exceeding sixty (60) days from that date.

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

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

ARTICLE II. 16 – LIQUIDATED DAMAGES

Should the Contractor fail to perform its obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the SJU's right to terminate the Contract, the SJU may decide to impose liquidated damages of 0.2% of the amount of the relevant purchase per calendar day of delay.

The Contractor may submit arguments against this decision within thirty (30) days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on its part or of written withdrawal by the SJU within thirty (30) days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion.

The SJU and the Contractor expressly acknowledge and agree that any sums payable under this Article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

ARTICLE II. 17 – CHECKS AND AUDITS

II.17.1. The Contractor shall provide free of charge all the detailed information requested by the SJU or by an outside body of the SJU's choice with a view to checking that the Contract is being properly performed.

- II.17.2.** The Contractor shall keep at the SJU's disposal the original or, in exceptional cases, duly authenticated copies of all documents relating to the Contract for a period of five (5) years from payment of the balance.
- II.17.3.** The SJU may, at any time within the period specified in the paragraph above, arrange for an audit to be carried out either by an outside body of its choice or by the SJU itself. The object of such an audit shall be limited to checking that the Contractor has complied with the Contract. The cost shall be borne by the SJU.
- II.17.4.** In order to carry out these audits, the SJU and the outside bodies concerned shall have the total on-the-spot access at all times to all the information needed to check that the Contractor has complied with the Contract, including information in electronic format.
- II. 17.5.** The European Court of Auditors and the European Anti-Fraud Office may carry out on-the-spot checks and inspections of the documents of the Contractor and its sub-contractors which have received Community funds, including inspections at the premises of the final beneficiaries, from the date of signature of this Contract up to five (5) years after final payment of the balance.

ARTICLE II. 18 – AMENDMENTS

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

ARTICLE II. 19 – SUSPENSION OF THE CONTRACT

Without prejudice to the SJU's right to terminate the Contract, the SJU may at any time and for any reason suspend execution of the Contract or any part thereof.

Suspension shall take effect on the day the Contractor receives notification by registered letter with acknowledgment of receipt or equivalent, or at a later date where the notification so provides. The SJU may at any time following suspension give notice to the Contractor to resume the work suspended. The Contractor shall not be entitled to claim compensation on account of suspension of the Contract, or any part thereof.

SIGNATURES

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

For the SESAR JOINT UNDERTAKING,
SESAR Joint Undertaking
Mr. Patrick KY
Executive Director

signature[s]: _____

signature[s]: _____

Done in....., on ...

Done in Brussels, on.....



ANNEX I to contract number SJU/LC/00..-CTR

Terms of reference



Annex II to contract number SJU/LC/...-CTR

Contractor's Tender Ref. (complete) of (complete date)

Annex III to contract number SJU/LC/...-CTR

Accession to the Contract

**ACCESSION OF CONTRACTORS TO
SJU CONTRACT NUMBER – SJU/LC/00__-CTR**

[to be filled in by each Contractor identified in Article I.1.2 of the Contract in case of a Consortium without legal existence]

[full name and legal form of the Contractor], represented for the purpose hereof by [name of legal representative] (function) [and/or (name of legal representative), (function)], or her/his/their authorised representative, established in (full address: city/state/province/country (person legally authorised to act on behalf of the legal entity)) acting as its legal authorised representative, hereby consents to become a Contractor ("Contractor no..") to SJU Contract Number SJU/...-CTR relating to the delivery a wireless communication study to the SJU between the SESAR Joint Undertaking and [name of the coordinator and legal form (acronym) established in (full address: city/state/province/country)] and accepts in accordance with the provisions of the aforementioned Contract all the rights and obligations of a Contractor.

Done in 3 copies, of which one shall be kept by the Coordinator and one by [name of the Contractor], the third being sent to the SJU by the Coordinator in accordance with Articles I.1.3, I.1.4 and I.6 of the Contract.

Name of Legal Entity [full name of the coordinator]	Name of Legal Entity [full name of the coordinator]
Name of legal representative: (written out in full)	Name of legal representative: (written out in full)
Signature of legal representative:	Signature of legal representative:
Date:	Date:
Stamp of the organisation	Stamp of the organisation