



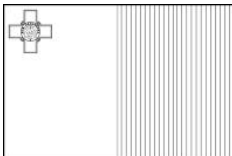
TENDER NUMBER: T18/2011

**SETTING UP OF AN UNDERWATER TRAIL
IN THE MARINE PROTECTED AREA OF
RDUM MAJJIESA TO RAS IR-RAĦEB (MALTA)**

Date Published: Friday, 9th December 2011

Closing Date: Monday, 16th January 2012 at 11:00am CET

This Tender Document is free of charge



Programme MED - MEDPAN North
Cohesion Policy 2007 - 2013
Europe in the Mediterranean

This project is being co-financed by the European Union
European Regional Development Fund (ERDF)
Co-financing rate: 85% EU Funds; 15% National Funds



Investing in your future

IMPORTANT:

- No Bid Bond is requested for this tender
- Tenderers are bound by their offers for at least 150 days after the closing date

Clarifications shall be uploaded and will be available to view/download from
<http://www.mepa.org.mt/info-tender>

Malta Environment and Planning Authority

St. Francis Ravelin, Floriana, FRN 1230, Malta. Tel: (356) 22900000. Fax: (356) 22902295 Email: dcs@mepa.org.mt

SERVICE TENDER TEMPLATE

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# VOLUME 1 SECTION 1 - INSTRUCTIONS TO TENDERERS

## A. GENERAL PART

### 1. General Instructions

- 1.1 In submitting a tender, the tenderer accepts in full and in its entirety, the content of this tender document, including subsequent Clarifications issued by the Contracting Authority, whatever his own corresponding conditions may be, which he hereby waives. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender document.

No account can be taken of any reservation in the tender as regards the tender document; any disagreement, contradiction, alteration or deviation shall lead to the tender offer not being considered any further.

The Evaluation Committee shall, after having obtained approval by the Departmental Contracts Committee, request rectifications in respect of incomplete/non-submitted information pertinent to the documentation as outlined in sub-Clause 16.1(a) of these Instructions to Tenderers. Such rectification/s must be submitted within two (2) working days from notification: failure to comply shall result in the tender offer not being considered any further.

No rectification shall be allowed in respect of the documentation as outlined in sub-Clause 16.1(b), 16.1(c) and 16.1(d) of these Instructions to Tenderers. Only clarifications on the submitted information in respect of the latter may be eventually requested.

- 1.2 This is a call for tenders to set up an underwater trail in the marine protected area of Rđum Majjiesa to Ras ir-Raġeb (Malta)
- 1.3 This is a global-price contract.
- 1.4 The tenderer will bear all costs associated with the preparation and submission of the tender. The Contracting Authority will in no case be responsible or liable for such costs, whatever the conduct or outcome of the procedure.
- 1.5 The Contracting Authority retains ownership of all tenders received under this tender procedure. Consequently, tenderers have no right to have their tenders returned to them.

### 2. Timetable

|                                                                                                                 | DATE                                   | TIME* |
|-----------------------------------------------------------------------------------------------------------------|----------------------------------------|-------|
| Deadline for request for any additional information from the Contracting Authority                              | Tuesday, 3 <sup>rd</sup> January 2012  | 16:00 |
| Last date on which additional information are issued by the Contracting Authority                               | Tuesday, 10 <sup>th</sup> January 2012 | 16:00 |
| Deadline for submission of tenders / Tender Opening Session (unless otherwise modified in terms of Clause 11.3) | Monday, 16 <sup>th</sup> January 2012  | 11:00 |

\* All times Central European Time (CET)

### 3. Lots

- 3.1 This tender is not divided into lots, and tenders must be for the whole of quantities indicated. Tenders will not be accepted for incomplete quantities.

## 4. Financing

- 4.1 This project is being co-financed by the European Union, European Regional Development Fund (ERDF), at a co-financing rate of 85% EU Funds; 15% National Funds, in accordance with the rules of Programme MED - Cohesion Policy 2007-2013 - Europe in the Mediterranean.
- 4.2 The beneficiary of the financing is the Malta Environment and Planning Authority.

## 5. Eligibility

- 5.1 Participation in tendering is open on equal terms to all natural and legal persons of the Member States of the European Union, the beneficiary country, any other country in accordance with Regulation 76 of the Public Procurement Regulations.
- 5.2 Natural persons, companies or undertakings who fall under any of the conditions set out in Regulation 50 of the Public Procurement Regulations, 2010 (Legal Notice 296 of 2010) may be excluded from participation in and the award of contracts. Tenderers or candidates who have been guilty of making false declarations will also incur financial penalties representing 10% of the total value of the contract being awarded.
- 5.3 Tenders submitted by companies forming a joint venture/consortium must also fulfil the following requirements:
- One partner must be appointed lead partner and that appointment confirmed by submission of powers of attorney signed by legally empowered signatories representing all the individual partners. The tender must include a preliminary agreement or letter of intent stating that all partners assume joint and several liability for the execution of the contract, that the lead partner is authorised to bind, and receive instructions for and on behalf of, all partners, individually and collectively.
  - All partners in the joint venture/consortium are bound to remain in the joint venture/consortium until the conclusion of the contracting procedure. The consortium/joint venture winning this contract must include the same partners for the whole performance period of the contract other than as may be permitted or required by law.
- 5.4 All materials, equipment and services to be supplied under the contract must originate in an eligible country. For these purposes, "origin" means the place where the materials and/or equipment are mined, grown, produced or manufactured and/or from which services are provided.

## 6. Selection Criteria

- 6.1 In order to be considered eligible for the award of the contract, tenderers must provide evidence that they meet or exceed certain minimum qualification criteria described hereunder.

**In the case of a joint venture, the joint venture as a whole must satisfy the minimum qualifications required below.**

- 6.1.1 No evidence of economic and financial standing is required.
- 6.1.2 Information about the tenderer's technical capacity.

(An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the contracting authority that it will have at its disposal the resources necessary for the execution of the contract, for example, by producing an undertaking by those entities to place the necessary resources at the disposal of the economic operator)

This information must follow the forms in Volume 1, Section 4 of the tender documents and include:

A list of the key experts and other staff proposed for the execution of the contract. The Evaluation Committee reserves the right to request the tenderers to substantiate their claims in respect to the staff proposed by requesting CVs of key staff and signed Declarations of Exclusivity and Availability during the evaluation stage.

The key expert(s) for this contract must possess the following:

- a. A postgraduate level degree or higher in a field related to nature conservation or marine biology, whilst being a qualified diver, at least up to advanced open water level;
- b. A proven track record over the last 10 years of surveying the marine environment and experience in similar projects including the natural attractions for recreational use;
- c. Have thorough knowledge on typical marine ecosystems found in central Mediterranean Sea;
- d. Fluent verbal and written English and Maltese are a necessity;
- e. Experience in project management and project coordination.

More than one person may take the role of the expert profile above, provided that all the qualifications, skills and experience for these positions are met collectively. Nonetheless the qualifications in point (a) above must be met by the same person.

Evidence of relevant experience in carrying out services of a similar nature over the past 5 years including the nature and value.

- a. The minimum value of projects of a similar nature completed shall be not less than €5000 per annum.
- b. The minimum number of projects of a similar scope/nature completed in the last 5 years must be at least 1 in number.

In case of a non-governmental organisation a copy of the certificate of registration, as issued by the Commissioner for Voluntary Organisations, is required.

## **7. Only One Tender Per Tenderer**

- 7.1 Submission or participation by a tenderer in more than one tender for a contract will result in the disqualification of all those tenders for that contract in which the party is involved.
- 7.2 A company may not tender for a given contract both individually and as a partner in a joint venture/consortium.
- 7.3 A company may not tender for a given contract both individually/partner in a joint venture/consortium, and at the same time be nominated as a sub-contractor by any another tenderer, or joint venture/consortium.
- 7.4 A company may act as a sub-contractor for any number of tenderers, and joint ventures/consortia, provided that it does not participate individually or as part of a joint venture/consortium, and that the nominations do not lead to a conflict of interest, collusion, or improper practice.

## **8. Tender Expenses**

- 8.1 The tenderer will bear all costs associated with the preparation and submission of the tender.
- 8.2 The Contracting Authority will neither be responsible for, nor cover, any expenses or losses incurred by the tenderer through site visits and inspections or any other aspect of his tender.

## **9. Site Inspection**

- 9.1 No clarification meeting/site visit is planned.

## **B. TENDER DOCUMENTS**

### **10. Content of Tender Document**

- 10.1 The set of tender documents comprises the following documents and should be read in conjunction with any clarification notes issued in accordance with Clause 24:
- Volume 1 Instructions to Tenderers
  - Volume 2
    - Draft Contract
    - General Conditions (available online from [www.contracts.gov.mt/conditions](http://www.contracts.gov.mt/conditions))
    - Special Conditions
  - Volume 3 Terms of Reference
  - Volume 4 Model Financial Bid
- 10.2 Tenderers bear sole liability for examining with appropriate care the tender documents, including those design documents available for inspection, and any clarification notes to the tender documents issued during the tendering period, and for obtaining reliable information with respect to conditions and obligations that may in any way affect the amount or nature of the tender or the execution of the works. In the event that the tenderer is successful, no claim for alteration of the tender amount will be entertained on the grounds of errors or omissions in the obligations of the tenderer described above.
- 10.3 The tenderer must provide all documents required by the provisions of the tender document. All such documents, without exception, must comply strictly with these conditions and provisions and contain no alterations made by the tenderer.

## **11. Explanations/Clarification Notes Concerning Tender Documents**

- 11.1 Tenderers may submit questions in writing to the Contracting Authority by sending an email to [dcs@mepa.org.mt](mailto:dcs@mepa.org.mt) up to 16 calendar days before the deadline for submission of tenders. The Contracting Authority must reply to all tenderers' questions, and amend the tender documents by publishing clarification notes, up to at least 6 calendar days before the deadline for submission of tenders.
- 11.2 Questions and answers, and alterations to the tender document will be published as a clarification note on the website of the Malta Environment and Planning Authority (<http://www.mepa.org.mt/info-tender>). Clarification notes will constitute an integral part of the tender documentation, and it is the responsibility of tenderers to visit this website and be aware of the latest information published online prior to submitting their Tender.
- 11.3 The Contracting Authority may, at its own discretion, as necessary and in accordance with Clause 24, extend the deadline for submission of tenders to give tenderers sufficient time to take clarification notes into account when preparing their tenders.

## **12. Labour Law**

- 12.1 Particular attention is drawn to the conditions concerning the employment of labour in Malta and the obligation to comply with all regulations, rules or instructions concerning the conditions of employment of any class of employee.

## **13. Law**

- 13.1 By submitting their tenders, tenderers are accepting that this procedure is regulated by Maltese Law, and are deemed to know all relevant laws, acts and regulations of Malta that may in any way affect or govern the operations and activities covered by the tender and the resulting contract.

## **C. TENDER PREPARATION**

### **14. Language of Tenders**

- 14.1 The tender and all correspondence and documents related to the tender exchanged by the tenderer and the Contracting Authority must be written in English.
- 14.2 Supporting documents and printed literature furnished by the tenderer may be in another language, provided they are accompanied by an accurate translation into English. For the purposes of interpretation of the tender, the English language will prevail.

### **15. Presentation of Tenders**



- 15.1 Tenders must satisfy the following conditions:
- (a) All tenders must be submitted in one original, clearly marked “original”, and one identical copy (including all documentation as in the original) signed in the same way as the original and clearly marked “copy”. **A soft copy saved on CD should be submitted together with the “original” copy.**
  - (b) Both documents are to be separately sealed and placed in another sealed envelope/package so that the bid can be identified as one tender submission. Following the tender opening session, the copy shall be kept, unopened, at the Corporate Services Directorate, Malta Environment and Planning Authority, for verification purposes only should the need arise.
  - (c) **All tenders must be received by date and time indicated in the timetable at Clause 2 and deposited in the tender box in the foyer of the Malta Environment and Planning Authority, St. Francis Ravelin, Floriana, FRN 1230, Malta.**
  - (d) All package, as per (b) above, must bear only:
    - (i) the above address;
    - (ii) the reference of the invitation to tender concerned;
    - (iii) the name of the tenderer.

## 16. Content of Tender (Single-Envelope System)

- 16.1 The tender must comprise the following duly completed documents, inserted in a single, sealed envelope (unless their volume requires a separate submission):
- (a) *General/Administrative Information*<sup>(Note 1)</sup>

Statement on Conditions of Employment (Volume 1, Section 4)

*Selection Criteria*
  - (b) *Technical Capacity*<sup>(Note 2)</sup>
    - (i) Experience as contractor (Volume 1, Section 4)
    - (ii) Personnel (Key Experts) to be employed on contract (Volume 1, Section 4)
  - (c) *Evaluation Criteria/Technical Specifications*<sup>(Note 2)</sup>

Tenderer’s Technical Offer in response to specifications/Terms of Reference (Volume 3)

    - Organization & Methodology
      - Rationale
      - Strategy
      - Timetable of Activities
  - (d) *Financial Offer/Bill of Quantities*<sup>(Note 2)</sup>
    - (i) The Tender Form in accordance with the form provided in Volume 1, Section 2; a separate Tender Form is to be submitted for each option tendered, each form clearly marked ‘Option 1’, ‘Option 2’ etc.;
    - (ii) A financial bid in the form provided in Volume 4.

### Notes to Clause 16.1:

1. *Tenderers will be requested to either clarify/rectify any incorrect and/or incomplete documentation, and/or submit any missing documents within two working days from notification.*
2. *No rectification shall be allowed. Only clarifications on the submitted information may be requested.*

Tenderers must indicate where the above documentation is to be found in their offer by using an index. All documentation is to be securely bound/filed.

Tenderers are NOT required NOR expected to submit, with their offer, any components of the tender document except those specifically mentioned in Clause 16.

## **17. Tender Prices**

- 17.1 The tender price must cover the whole of the works as described in the tender documents.
- 17.2 The tenderer must provide a breakdown of the overall price in Euro (€).
- 17.3 Tenderers must quote all components of the price inclusive of VAT, taxes, customs and import duties, and any discounts. Except as may otherwise be provided for in the contract, no payment will be made for items which have not been costed.
- 17.4 Different options are to be clearly identifiable in the technical and financial submission; a **separate Tender Form (as per Volume 1, Section 2) marked 'Option 1', 'Option 2' etc. for each individual option clearly outlining the price of the relative option is to be submitted.**
- 17.5 If the tenderer offers a discount, the discount must be absorbed in the rates of the Bill of Quantities/Financial Statement.
- 17.6 The prices for the contract must include all of the works to be provided. The prices quoted are fixed and not subject to revision or escalation in costs, unless otherwise provided for in the Special Conditions.
- 17.8 The budget available for this tender is **€18,000** including VAT]

## **18. Currencies of Tender and Payments**

- 18.1 The currency of the tender is the Euro (€). All sums in the breakdown of the overall price, in the questionnaire and in other documents must be expressed in Euro (€), with the possible exception of originals of bank and annual financial statements.
- 18.2 Payments will be made upon certification of services by the Contracting Authority, based on the invoice issued by the Contractor, in accordance with the timeframes, terms and conditions of the contract.
- 18.3 All correspondence relating to payments, including invoices and interim and final statements must be submitted as outlined in the contract.

## **19. Period of Validity of Tenders**

- 19.1 Tenders must remain valid for a period of 150 days after the deadline for submission of tenders indicated in the contract notice, the tender document or as modified in accordance with Clauses 11.3 and/or 24. Any tenderer who quotes a shorter validity period will be rejected.
- 19.2 In exceptional circumstances the Contracting Authority may request that tenderers extend the validity of tenders for a specific period. Such requests and the responses to them must be made in writing. A tenderer may refuse to comply with such a request, however his/her tender will no longer be considered for award. If the tenderer decides to accede to the extension, s/he may not modify his/her tender.
- 19.3 The successful tenderer must maintain his/her tender for a further 60 days from the date of notification of award.

## **20. Tender Guarantee (Bid Bond)**

- 20.1 No tender guarantee (bid bond) is required.

## **21. Variant Solutions**

- 21.1 No variant solutions will be accepted. Tenderers must submit a tender in accordance with the requirements of the tender document.

## **22. Preparation and Signing of Tenders**

- 22.1 All tenders must be submitted in one original, clearly marked “original”, and one identical copy (including all documentation as in the original) signed in the same way as the original and clearly marked “copy”. Tenders must comprise the documents specified in Clause 16 above.

It is the responsibility of the tenderers to ensure that both the original and the copy are an identical representation of one another.

- 22.2 The tenderer’s submission must be typed in, or handwritten in indelible ink. Any pages on which entries or corrections to his/her submission have been made must be initialled by the person or persons signing the tender. All pages must be numbered consecutively by hand, machine or in any other way acceptable to the Contracting Authority.
- 22.3 The tender must contain no changes or alterations, other than those made in accordance with instructions issued by the Contracting Authority (issued as clarification notes) or necessitated by errors on the part of the tenderer. In the latter case, corrections must be initialled by the person signing the tender.
- 22.4 The tender will be rejected if it contains any alteration, tampering, addition or deletion to the tender documents not specified in a clarification note issued by the Contracting Authority.

## **D. SUBMISSION OF TENDERS**

### **23. Sealing and Marking of Tenders**

- 23.1 The tenders must be submitted in English and deposited in the Malta Environment and Planning Authority’s tender box **before** the deadline specified in Clause 2 or as otherwise specified in accordance with Clause 11.1 and/or 24.1. They must be submitted:

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

**Corporate Services Directorate,  
Malta Environment and Planning Authority,  
St. Francis Ravelin,  
Floriana, FRN 1230  
Malta**

Tenders submitted by any other means will not be considered.

- 23.2 Tenderers must seal the original and the copy of their tender as outlined in Clause 15.
- 23.3 If the outer envelope is not sealed and marked as required in Sub clause 15.1, the Contracting Authority will assume no responsibility for the misplacement or premature opening of the tender.

### **24. Extension of Deadline for Submission of Tenders**

- 24.1 The Contracting Authority may, at its own discretion, extend the deadline for submission of tenders by issuing a clarification note in accordance with Clause 11. In such cases, all rights and obligations of the Contracting Authority and the tenderer regarding the original date specified in the contract notice will be subject to the new date.

### **25. Late Tenders**

- 25.1 All tenders received after the deadline for submission specified in the contract notice or these instructions will be kept by the Contracting Authority.
- 25.2 No liability can be accepted for late delivery of tenders. Late tenders will be rejected and will not be evaluated.

### **26. Alterations and Withdrawal of Tenders**

- 26.1 Tenderers may alter or withdraw their tenders by written notification prior to the above

deadline. No tender may be altered after the deadline for submission.

- 26.2 Any notification of alteration or withdrawal must be prepared, sealed, marked and submitted in accordance with Clause 23, and the envelope must also be marked with "alteration" or "withdrawal".

## **E. OPENING AND EVALUATION OF OFFERS**

### **27. Opening of Tenders**

- 27.1 Tenders will be opened on the date and time indicated in the timetable at Clause 2 (or as otherwise specified in accordance with Clause 11.1 and/or 24.1) at the Malta Environment and Planning Authority, St. Francis Ravelin, Floriana, FRN 1230, Malta by the Tender Opening Board. They will draw up a 'Summary of Tenders Received' which will be published on MEPA's website, [www.mepa.org.mt/info-tender](http://www.mepa.org.mt/info-tender)
- 27.2 At the tender opening, the tenderers' names, the tender prices, variants, written notification of alterations and withdrawals, the presence of the requisite tender guarantee and any other information the Contracting Authority may consider appropriate will be published.
- 27.3 Envelopes marked "withdrawal" will be read out first and returned to the tenderer.
- 27.4 Reductions or alterations to tender prices made by tenderers after submission will not be taken into consideration during the analysis and evaluation of tenders.

### **28. Secrecy of the Procedure**

- 28.1 After the opening of the tenders, no information about the examination, clarification, evaluation or comparison of tenders or decisions about the contract award may be disclosed before the notification of award.
- 28.2 Information concerning checking, explanation, opinions and comparison of tenders and recommendations concerning the award of contract, may not be disclosed to tenderers or any other person not officially involved in the process unless otherwise permitted or required by law.
- 28.3 Any attempt by a tenderer to approach any member of the Evaluation Committee/Contracting Authority directly during the evaluation period will be considered legitimate grounds for disqualifying his/her tender.

### **29. Clarification of Tenders**

- 29.1 When checking and comparing tenders, the evaluation committee may, after obtaining approval from the Departmental Contracts Committee, ask a tenderer to clarify any aspect of his tender.
- 29.2 Such requests and the responses to them must be made by e-mail or fax. They may in no circumstances alter or try to change the price or content of the tender, except to correct arithmetical errors discovered by the evaluation committee when analysing tenders, in accordance with Clause 31.

### **30. Tender Evaluation Process**

- 30.1 The following should be read in conjunction with Clause 27.
- 30.2 **Part 1: Administrative Compliance**

The Evaluation Committee will check the compliance of tenders with the instructions given in the tender document, and in particular the documentation submitted in respect of Clause 16.

The Evaluation Committee shall, after having obtained approval by the Departmental Contracts Committee, request rectifications in respect of incomplete/non-submitted information pertinent to the documentation as outlined in sub-Clause 16.1(a), 1of these Instructions to Tenderers. Such rectification/s must be submitted within two (2) working days from notification: failure to comply shall result in the tender offer not being considered any

further. No rectification shall be allowed in respect of the documentation as outlined in sub-Clause 16.1(b), 16.1(c), and 16.1(d) of these Instructions to Tenderers. Only clarifications on the submitted information in respect of the latter may be eventually requested.

### 30.3 Part 2: Eligibility and Selection Compliance

Tenders which have been considered administratively compliant shall be evaluated for admissibility as outlined below:

*(i) Eligibility Criteria*

- Tender Form (Volume 1, Section 2)

*(ii) Selection Criteria*

- Evidence of technical capacity (sub-Clause 6.1.2)

### 30.4 Part 3: Technical Compliance

At this step of the evaluation process, the Evaluation Committee will analyse the administratively-compliant tenders' technical conformity in relation to the Terms of Reference (Volume 3, and the documentation requested by the Contracting Authority as per sub-Clause 16(c)).

Tenders who are deemed to be provisionally technically compliant through the evaluation of their technical offer (especially the specifications) shall be requested to submit CVs and Declarations of Exclusivity and Availability so that the Evaluation Committee will corroborate the technical compliance of the offers received.

When evaluating technical offers, each evaluator awards each offer a score out of a maximum 100 points in accordance with the technical criteria and any sub-criteria as outlined below. The aggregate final score is arrived at by calculating the arithmetical average of the individual final score of each evaluator.

**Evaluation Grid**

| <b>Criterion</b>                      | <b>Maximum Score Possible</b> |
|---------------------------------------|-------------------------------|
| <b>Organization &amp; Methodology</b> |                               |
| <b>1. Rationale</b>                   | 30                            |
| <b>2. Strategy</b>                    | 50                            |
| <b>3. Timetable of Activities</b>     | 20                            |
| <b>TOTAL</b>                          | <b>100</b>                    |

Only tenders with average scores of at least 60 points will qualify for the financial evaluation.

Out of the tenders reaching this minimum threshold, the best technical offer is awarded 100 points. The others receive points calculated using the following formula:

$$\text{Technical score} = \frac{\text{final score of the technical offer in question} \times 100}{\text{final score of the best technical offer}}$$

### 30.5 Part 4. Financial Evaluation

The financial offers for tenders which were not eliminated during the technical evaluation (i.e., those which have achieved an average score of 60 points or more) will be evaluated.

The Evaluation Committee will check that the financial offers contain no arithmetical errors as outlined in Clause 31.

The tender with the lowest financial offer receives 100 points. The others are awarded points

by means of the following formula:

$$\text{Financial score} = \frac{\text{lowest financial offer}}{\text{financial offer of the tender being considered}} \times 100$$

### **31. Correction of Arithmetical Errors**

- 31.1 Admissible tenders will be checked for arithmetical errors by the Evaluation Committee. Errors will be corrected as follows:
- (a) where there is a discrepancy between amounts in figures and in words, the amount in words will prevail;
  - (b) where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will prevail.
- 31.2 The amount stated in the tender will be adjusted by the Evaluation Committee in the event of error, and the tenderer will be bound by that adjusted amount. In this regard, the Evaluation Committee shall seek the prior approval of the Departmental Contracts Committee to communicate the revised price to the tenderer. If the tenderer does not accept the adjustment, his tender will be rejected and his tender guarantee forfeited.
- 31.3 When analysing the tender, the evaluation committee will determine the final tender price after adjusting it on the basis of Clause 31.1.

## **F. CONTRACT AWARD**

### **32. Criteria for Award**

- 32.1 The quality of each technical offer will be evaluated in accordance with the award criteria and the associated weighting as detailed in the evaluation grid of this tender document (Article 30.4). No other award criteria will be used. The award criteria will be examined in accordance with the requirements as indicated in the Technical Specifications

The Most Economically Advantageous Tender (MEAT) is established by weighing technical quality against price on an 80/20 basis respectively. This is done by multiplying:

- the technical scores awarded to the offers by 0.80
- the financial scores awarded to the offers by 0.20

### **33. Right of the Contracting Authority to accept or reject any Tender**

- 33.1 The Contracting Authority reserves the right to accept or reject any tender and/or to cancel the whole tender procedure and reject all tenders. The Contracting Authority reserves the right to initiate a new invitation to tender.
- 33.2 In the event of a tender procedure's cancellation, tenderers will be notified by the Contracting Authority. If the tender procedure is cancelled before the outer envelope of any tender has been opened, the sealed envelopes will be returned, unopened, to the tenderers.
- 33.3 Cancellation may occur where:
- (a) the tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received or there has been no response at all;
  - (b) the economic or technical parameters of the project have been fundamentally altered;
  - (c) exceptional circumstances or force majeure render normal performance of the project impossible;
  - (d) all technically compliant tenders exceed the financial resources available;
  - (e) there have been irregularities in the procedure, in particular where these have prevented fair competition.

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

## **34. Notification of Award, Contract Clarifications**

- 34.1 Prior to the expiration of the period of validity of tenders, the Contracting Authority will notify the successful tenderer, in writing, that his tender has been recommended for award by the Departmental Contracts Committee, pending any appeal being lodged in terms of Part XIII of the Public Procurement Regulations (being reproduced in Volume 1, Section 6).
- 34.2 Unsuccessful bidders shall be notified by the Contracting Authority with the outcome of the evaluation process, and will be provided the following information:
- (i) the criteria for award;
  - (ii) the name of the successful tenderer;
  - (iii) the recommended price of the successful bidder;
  - (iv) the score obtained by the unsuccessful bidder, and the score of the successful bidder;
  - (v) the deadline for filing a notice of objection (appeal);
  - (vi) the deposit required if lodging an appeal.
- 34.3 The recommendations of the Departmental Contracts Committee shall be published online on MEPA's website, [www.mepa.org.mt/info-tender](http://www.mepa.org.mt/info-tender)

## **35. Contract Signing and Performance Guarantee**

- 35.1 After the lapse of the appeals period, and pending that no objections have been received and/or upheld, the successful tenderer may be invited to clarify certain contractual questions raised therein. Such clarification will be confined to issues that had no direct bearing on the choice of the successful tender. The outcome of any such clarifications will be set out in a Memorandum of Understanding, to be signed by both parties and incorporated into the contract.
- 35.2 Within 15 calendar days of receiving the contract (against acknowledgment of receipt) from the Contracting Authority, the successful tenderer will sign and date the contract and return it to the Contracting Authority with the performance guarantee and the Financial Identification Form (if applicable). On signing of the contract by the Contracting Authority, the successful tenderer will become the Contractor and the contract will enter into force.
- 35.3 Before the Contracting Authority signs the contract with the successful tenderer, the successful tenderer may be requested to provide the documentary proof or statements required to show that it does not fall into any of the exclusion situations listed in Clause 7 of the Tender Form (Volume 1, Section 2). The above mentioned documents must be submitted by every member of a Joint Venture/Consortium (if applicable).
- 35.4 If the selected tenderer fails to sign and return the contract, other required documentation, and any guarantees required within the prescribed 15 calendar days, the Contracting Authority may consider the acceptance of the tender to be cancelled without prejudice to the Contracting Authority's right to seize the guarantee, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the Contracting Authority.
- The tenderer whose tender has been evaluated as second most economically advantageous may be recommended for award, and so on and so forth.
- 35.5 Only the signed contract will constitute an official commitment on the part of the Contracting Authority, and activities may not begin until the contract has been signed by the Contracting Authority and the successful tenderer.
- 35.6 Tender guarantees (bid bonds) provided by tenderers who have not been selected shall be released within 30 calendar days from the signing of the contract. The tender guarantee of the successful tenderer shall be released on the signing of the contract.

## **36. Commencement of Services**

- 36.1 Following the signing of the contract by both parties, the Project Manager will issue a written notice of commencement of the services in accordance with the General Conditions, as specified by the Special Conditions.
- 36.2 The Contractor must inform the Contracting Authority's representative by return that s/he has received the notice.

## **G. MISCELLANEOUS**

### **37. Ethics Clauses**

- 37.1 Any attempt by a candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the committee or the Contracting Authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of his candidacy or tender and may result in administrative penalties.
- 37.2 Without the Contracting Authority's prior written authorisation, the Contractor and his/her staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or sub-contracting basis, supply other services, carry out works or supply equipment for the project. This prohibition also applies to any other programmes or projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor.
- 37.3 When putting forward a candidacy or tender, the candidate or tenderer must declare that s/he is affected by no potential conflict of interest, and that s/he has no particular link with other tenderers or parties involved in the project.
- 37.4 The Contractor must at all times act impartially and as a faithful adviser in accordance with the code of conduct of his/her profession. S/he must refrain from making public statements about the project or services without the Contracting Authority's prior approval. S/he may not commit the Contracting Authority in any way without its prior written consent.
- 37.5 For the duration of the contract, the Contractor and his/her staff must respect human rights and undertake not to offend the political, cultural and religious morals of Malta.
- 37.6 The Contractor may accept no payment connected with the contract other than that provided for therein. The Contractor and his/her staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.
- 37.7 The Contractor and his/her staff are obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Contractor are confidential.
- 37.8 The contract governs the Parties' use of all reports and documents drawn up, received or presented by them during the execution of the contract.
- 37.9 The Contractor shall refrain from any relationship likely to compromise his/her independence or that of his/her staff. If the Contractor ceases to be independent, the Contracting Authority may, regardless of injury, terminate the contract without further notice and without the Contractor having any claim to compensation.
- 37.10 The tender(s) concerned will be rejected or the contract terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

### **38. Data Protection and Freedom of Information**

- 38.1 Any personal data submitted in the framework of the procurement procedure and/or subsequently included in the contract shall be processed pursuant to the Data Protection Act (2001). It shall be processed solely for the purposes of the performance, management and follow-up of the procurement procedure and/or subsequent contract by the Contracting Authority without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in conformity with National and/or Community law.
- 38.2 The provisions of this contract are without prejudice to the obligations of the Contracting Authority in terms of the Freedom of Information Act (Cap. 496 of the Laws of Malta). The Contracting Authority, prior to disclosure of any information to a third party in relations to any provisions of this contract which have not yet been made public, shall consult the



contractor in accordance with the provisions of the said Act, pertinent subsidiary legislation and the Code of Practice issued pursuant to the Act. Such consultation shall in no way prejudice the obligations of the Contracting Authority in terms of the Act.

### **39. Gender Equality**

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

## VOLUME 1 SECTION 2 - TENDER FORM

(A separate, distinct Tender Form must be submitted for EACH OPTION - if applicable - submitted)

Place and Date:  
 Publication reference: T18/2011  
 Malta Environment and Planning Authority  
 St. Francis Ravelin  
 Floriana FRN 1230  
 Malta

Service Tender to set up of an underwater trail in the marine protected area of Rđum Majjiesa to Ras ir-Raĥeb (Malta)

### A TENDER SUBMITTED BY

|           | Name(s) of tenderer(s) | Nationality |
|-----------|------------------------|-------------|
| Leader    |                        |             |
| Partner * |                        |             |
| Etc ... * |                        |             |

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

| Service intended to be sub-contracted | Name and details of sub-contractors | Value of sub-contracting as percentage of the total cost * | Experience in similar services (details to be specified) |
|---------------------------------------|-------------------------------------|------------------------------------------------------------|----------------------------------------------------------|
| 1                                     |                                     |                                                            |                                                          |
| 2                                     |                                     |                                                            |                                                          |
| (.)                                   |                                     |                                                            |                                                          |

\* The maximum amount of sub-contracting must not exceed 55% of the total contract value. The main contractor must have the ability to carry out at least 45% of the contract works by his own means.

**B CONTACT PERSON (for this tender)**

|                  |                         |                |              |
|------------------|-------------------------|----------------|--------------|
| <b>Name</b>      |                         | <b>Surname</b> |              |
| <b>Telephone</b> | (____) _____            | <b>Fax</b>     | (____) _____ |
| <b>Mobile</b>    | (____) _____            |                |              |
| <b>Address</b>   | .....<br>.....<br>..... |                |              |
| <b>E-mail</b>    |                         |                |              |

**C TENDERER'S DECLARATION(S)**

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

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

- 1 We have examined, and accept in full and in its entirety, the content of this tender document (including subsequent Clarifications Notes issued by the Contracting Authority) for invitation to tender No [\_\_\_\_\_/\_\_\_\_\_] of [...../...../.....]. We hereby accept the contents thereto in their entirety, without reservation or restriction. We also understand that any disagreement, contradiction, alteration or deviation shall lead to our tender offer not being considered any further.
- 2 We offer to execute, in accordance with the terms of the tender document and the conditions and time limits laid down, without reserve or restriction, the following works:  
  
[.....] [description of services]
- 3 The total price of our tender (inclusive of duties, VAT, other taxes and any discounts) is:  
  
[.....]
- 4 This tender is valid for a period of **150** days from the final date for submission of tenders.
- 5 If our tender is accepted, we undertake to provide a performance guarantee of 10% of the contract value as required by the General Conditions (if applicable).
- 6 We are making this application in our own right and **[as partner in the consortium led by < name of the leader / ourselves > ]** for this tender [Lot No]. We confirm that we are not tendering for the same contract in any other form. [We confirm, as a partner in the consortium, that all partners are jointly and severally liable by law for the performance of the contract, that the lead partner is authorised to bind, and receive instructions for and on behalf of, each member, and that all partners in the joint venture/consortium are bound to remain in the joint venture/consortium for the entire period of the contract's performance]. We are fully aware that, in the case of a consortium, the composition of the consortium cannot be modified in the course of the tender procedure.
- 7 We are not bankrupt or under an administration appointed by the Court, or under proceedings leading to a declaration of bankruptcy. We also declare that we have not been convicted criminally, or found guilty of professional misconduct. Furthermore, we are up-to-date in the payment of social security contributions and other taxes.
- 8 We accept that we shall be excluded from participation in the award of this tender if compliance certificates in respect of declarations made under Clause 7 of this declaration are not submitted by the indicated dates.
- 9 We agree to abide by the ethics clauses of the instructions to tenderers and, in particular, have no potential conflict of interests or any relation with other candidates or other parties in the tender procedure at the time of the submission of this application. We have no interest of any nature whatsoever in any other tender in this procedure. We recognise that our tender may be excluded if we propose key experts who have been involved in preparing this project or engage such personnel as advisers in the preparation of our tender.
- 10 We will inform the Contracting Authority immediately if there is any change in the above circumstances at any stage during the implementation of the contract. We also fully recognise and accept that any false, inaccurate or incomplete information deliberately provided in this application may result in our exclusion from this and other contracts funded by the Government of Malta and the European Communities.
- 11 Our tender submission has been made in conformity with the Instructions to Tenderers, and in this respect we confirm having included in the appropriate packages as required, the following documentation:

- (a) **General Information** <sup>(Note 1)</sup>
  - o Statement on Conditions of Employment

**Selection Criteria**

- (b) **Technical Capacity** <sup>(Note 2)</sup>

- Experience as contractor
  - Personnel (Key Experts) to be employed on contract
- (c) **Evaluation Criteria/Technical Specifications** <sup>(Note 2)</sup>
- Tenderer’s Technical Offer
- (d) **Tender Form, and Financial Offer/Bill of Quantities** <sup>(Note 2)</sup>

**Notes:**

1. *Tenderers will be requested to either clarify/rectify any incorrect and/or incomplete documentation, and/or submit any missing documents within two working days from notification. This is indicated by the symbol ◦*
2. *No rectification shall be allowed. Only clarifications on the submitted information may be requested. This is indicated by the symbol.*

**12** I acknowledge that the Contracting Authority shall request rectifications in respect of incomplete/non-submitted information pertinent to the documentation listed in Clause 11(a), of this Tender Form. We understand that such rectification/s must be submitted within two (2) working days, and that failure to comply shall result in our offer not being considered any further.

**13** We note that the Contracting Authority is not bound to proceed with this invitation to tender and that it reserves the right to cancel or award only part of the contract. It will incur no liability towards us should it do so.

Name and Surname: \_\_\_\_\_

I.D. / Passport Number: \_\_\_\_\_

Signature of tenderer: \_\_\_\_\_

Duly authorised to sign this tender on behalf of: \_\_\_\_\_

Company/Lead Partner VAT No: \_\_\_\_\_  
*(if applicable)*

Stamp of the firm/company: \_\_\_\_\_

Place and date: \_\_\_\_\_

# VOLUME 1 SECTION 4 - TENDERER'S STATEMENTS

## 1. Statement on Conditions of Employment

It is hereby declared that all employees engaged on this contract shall enjoy working conditions such as wages, salaries, vacation and sick leave, maternity and parental leave as provided for in the relative Employment Legislation. Furthermore, we shall comply with Chapter 424 of the Laws of Malta (Occupational Health and Safety Authority Act) as well as any other national legislation, regulations, standards and/or codes of practice or any amendment thereto in effect during the execution of the contract.

In the event that it is proved otherwise during the execution of the contract it is hereby being consented that the contract is terminated with immediate effect and that no claim for damages or compensation be raised by us.

Signature: .....

*(the person or persons authorised to sign on behalf of the tenderer)*

Date: .....

## 2. Experience as Contractor

List of contracts of similar nature and extent performed during the past 5 years:

| Description of Services | Total Value of Services | Period of Execution | Client*/<br>Contracting Authority* |
|-------------------------|-------------------------|---------------------|------------------------------------|
|                         |                         |                     |                                    |
|                         |                         |                     |                                    |
|                         |                         |                     |                                    |
|                         |                         |                     |                                    |
|                         |                         |                     |                                    |
|                         |                         |                     |                                    |
|                         |                         |                     |                                    |
|                         |                         |                     |                                    |
|                         |                         |                     |                                    |

Signature: .....  
(the person or persons authorised to sign on behalf of the tenderer)

Date: .....

### 3. Key Experts

The Evaluation Committee reserves the right to request the tenderers to substantiate their claims in respect to the staff proposed by requesting CVs of Key Experts during the evaluation stage. Key Experts shall also be requested to submit a filled-in Statement of Exclusivity and Availability during the evaluation stage.

| Name of Expert | Proposed Position | Nationality | Age | Educational Background | Specialist Area of Knowledge | Years of Experience | Languages and Degree of Fluency (VG; G; W) |
|----------------|-------------------|-------------|-----|------------------------|------------------------------|---------------------|--------------------------------------------|
|                |                   |             |     |                        |                              |                     |                                            |
|                |                   |             |     |                        |                              |                     |                                            |
|                |                   |             |     |                        |                              |                     |                                            |
|                |                   |             |     |                        |                              |                     |                                            |
|                |                   |             |     |                        |                              |                     |                                            |
|                |                   |             |     |                        |                              |                     |                                            |
|                |                   |             |     |                        |                              |                     |                                            |
|                |                   |             |     |                        |                              |                     |                                            |

Signature: .....  
*(the person or persons authorised to sign on behalf of the tenderer)*

Date: .....



### 3.1 Statement on Exclusivity and Availability

TO BE COMPLETED BY EACH INDIVIDUAL KEY EXPERT IF REQUIRED

PUBLICATION REF: \_\_\_\_\_

I, the undersigned, hereby declare that I agree to participate exclusively with the tenderer

..... [name of *tenderer*]

in the above-mentioned service tender procedure. I further declare that I am able and willing to work for the period(s) foreseen for the position for which my CV has been included in the event that this tender is successful, namely:

| From                           | To                           |
|--------------------------------|------------------------------|
| .....<br>< start of period 1 > | .....<br>< end of period 1 > |
| .....<br>< start of period 2 > | .....<br>< end of period 2 > |
| < etc >                        | < etc >                      |

I confirm that I am not engaged in another project in a position for which my services are required during the above periods.

By making this declaration, I understand that I am not allowed to present myself as a candidate to any other tenderer submitting a tender to this tender procedure. I am fully aware that if I do so, I will be excluded from this tender procedure, the tenders may be rejected, and I may also be subject to exclusion from other tender procedures and contracts.

Furthermore, should this tender be successful, I am fully aware that if I am not available at the expected start date of my services for reasons other than ill-health or *force majeure*, I may be subject to exclusion from other tender procedures and contracts and that the notification of award of contract to the tenderer may be rendered null and void.

Name of Key Expert: .....

Signature: .....

Date: .....

# VOLUME 1 SECTION 5 - GLOSSARY

## Definitions

*Note: the present definitions are given here for convenience only, in the context of the tender procedure. The definitions set out in the contract as concluded are determining for the relations between the parties to the contract.*

**Administrative order:** Any written or oral instruction or order issued by the Project Manager to the Contractor regarding the execution of the services.

**Beneficiary Country:** The Maltese Islands.

**Breakdown of the overall price:** A heading-by-heading list of the rates and costs making up the price for a lump-sum contract.

**Budget Breakdown:** In a fee-based contract, the schedule which breaks down the contract value, stating out the fee rates and the provision for incidental expenses.

**Cash Flow Forecast:** The Contractor's estimate of the cash flows arising directly from the execution of a fee-based contract.

**Commission:** The European Commission.

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

**Contract:** The signed agreement entered into by the parties for the performance of the services, including all attachments thereto and all documents incorporated therein.

**Contract Value:** The total value of the contract to be paid by the Contracting Authority in terms of the agreed terms and conditions.

**Contracting Authority:** means the Malta Environment and Planning Authority.

**Contractor:** The party which contracts to perform the services.

**Day:** Calendar day.

**Drawings:** Drawings provided by the Contracting Authority, and/or drawings provided by the Contractor and approved by the Project Manager, for the carrying out of the services.

**EC:** The European Community.

**EU:** The European Union.

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

**Fee-Based Contract:** A contract under which the services are provided on the basis of fixed fee rates for each day/hour worked by experts/service provider.

**Final Beneficiary:** The Malta Environment and Planning Authority

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

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

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

**Global Price Contract:** A contract under which the services are performed for an all-inclusive fixed price.

**In writing:** This includes any hand-written, typed or printed communication, including fax transmissions and electronic mail (e-mail).

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

**Modification:** An instruction given by the Project Manager which modifies the works.

**Month:** Calendar month.

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

**Period:** A period begins the day after the act or event chosen as its starting point. Where the last day of a period is not a working day, the period expires at the end of the next working day.

**Plant:** appliances and other machinery, and, where applicable under the law and/or practice of the state of the Contracting Authority, the temporary structures on the site required to carry out the works but excluding equipment or other items required to form part of the permanent works.

**Project:** The project in relation to which the services are to be provided under the contract.

**Project Manager:** The natural or legal person responsible for monitoring the implementation of the contract on behalf of the Contracting Authority.

**Public Service:** Government Ministries and Departments.

**Services:** Activities to be performed by the Contractor under the contract such as technical assistance, studies, training and designs.

**Special conditions:** The special conditions laid down by the Contracting Authority as an integral part of the tender document, amplifying and supplementing the general conditions, clauses specific to the contract and the terms of reference.

**Tender document/s:** The dossier compiled by the Contracting Authority and containing all the documents needed to prepare and submit a tender.

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

**Terms of Reference:** The document in Volume 3, Section 1, drawn up by the Contracting Authority giving the definition of its requirements and/or the objectives in respect of the provision of services, specifying, where relevant, the methods and resources to be used by the Contractor and/or the results to be achieved by it.

**Time Limits:** Those periods in the contract which shall begin to run from the day following the act or event which serves as the starting point for those periods. Should the last day of the period fall upon a non-working day, the period shall expire at the end of the first working day following the last day of the period.

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

## VOLUME 1 SECTION 6 - EXTRACTS FROM THE PUBLIC PROCUREMENT REGULATIONS

### Appeals (Right to Recourse)

The procedure for the submission of appeals is stipulated in Part II of the Public Contracts Regulations (Legal Notice 296/2010), reproduced hereunder for ease of reference. Part II (Rules governing public contracts whose value does not exceed €120,000) of the Public Contracts Regulations - Regulation 21

- 21.1 Where the estimated value of the public contract exceeds twelve thousand euro (€12,000) and is issued by an authority listed in Schedule 1, any tenderer or candidate concerned shall have a right to make a complaint to the Review Board in accordance with this regulation.
- 21.2 (a) The contracting authority shall be obliged to issue a notice and affix an advertisement, in a prominent place at its premises, indicating the awarded public contract, the financial aspect of the award and the name of the successful tenderer. The contracting authority shall, by electronic means or by fax, inform the tenderer or candidate concerned of the publication of the award. The contracting authority shall be precluded from concluding the contract during the period allowed for the submission of appeals.  
(b) The award process shall be completely suspended if an appeal is eventually submitted.
- 21.3 Any tenderer or candidate concerned who is aggrieved by the award indicated by the contract authority may, within five working days from the publication of the notice, file a letter of objection, together with a deposit, with the contracting authority, clearly setting forth any reason for his complaint. The deposit to be paid in respect of tenders valued at less than forty-seven thousand euro (€47,000) shall be four hundred euro (€400), while those between forty-seven thousand euro (€47,000) and one hundred and twenty thousand euro (€120,000) shall be 0.5% of the estimated value of the tender, with a minimum deposit of four hundred euro (€400). The letter by the complaining tenderer shall be affixed on the notice board of the contracting authority and shall be brought to the attention of the recommended tenderer.
- 21.4 After the expiry of the period allowed for the submission of a complaint, the contracting authority shall deliver the letter of complaint, the deposit receipt and all documents relating to the public contract in question to the Review Board who shall examine the matter in a fair and equitable manner. In its deliberation the Review Board shall have the authority to obtain, in any manner it deems appropriate, any other information not already provided by the contracting authority. The Review Board shall determine the complaint by upholding or rejecting it. The written decision of the Review Board shall be affixed on the notice board of the contracting authority and copies thereof shall be forwarded to the Director of Contracts and all the parties involved.
- 21.5 The tenderer or candidate concerned who is not satisfied with the decision granted by the Review Board may refer the matter to the Court of Appeal (Inferior Jurisdiction) in terms of article 41(6) of the Code of Organization and Civil Procedure within a period of sixty days. Such recourse however may not delay the Head of the contracting authority from implementing the Review Board's decision.



## VOLUME 2

### VOLUME 2 SECTION 1 - DRAFT CONTRACT FORM

Financed by: This project is being co-financed by the European Union European Regional Development Fund (ERDF) at a co-financing rate: 85% EU Funds; 15% National Fund with the rules of Programme MED - Cohesion Policy 2007-2013 - Europe in the Mediterranean.

**Project:** Setting Up of an Underwater Trail in the Marine Protected Area of Rđum Majjiesa to Ras Ir-Raĥeb  
(Malta)

**Contract Number:** ..... [Contract Number]

This contract is concluded between:

Malta Environment and Planning Authority  
St. Francis Ravelin  
Floriana FRN 1230  
Malta

(hereinafter called “The Contracting Authority”) on the one part, and

[Name of Contractor]  
[Address]

(hereinafter called “The Contractor”) on the other part,

Whereas the Contracting Authority is desirous that certain services should be executed by the Contractor, viz.:

**Service Tender for the Setting Up of an Underwater Trail in the Marine Protected Area of Rđum Majjiesa to Ras Ir-Raĥeb (Malta)**

and has accepted a tender by the Contractor for the execution and completion of such services and the remedying of any defects therein.

**It is hereby agreed as follows:**

1. In this contract words and expressions shall have the meanings assigned to them in the contractual conditions set out below.
2. The following documents shall be deemed to form and be read and construed as part of this contract, in the following order of precedence:
  - (a) this Contract,
  - (b) the Special Conditions,
  - (c) the General Conditions,
  - (d) the Terms of Reference,
  - (e) the Contractor’s technical offer (Organization & Methodology) (including any clarifications made during adjudication),
  - (f) the Financial Offer (after arithmetical corrections)/breakdown,
  - (g) the Tender Form,
  - (h) any other documents forming part of the contract.

Addenda shall have the order of precedence of the document they are modifying.

3. In consideration of the payments to be made by the Contracting Authority to the Contractor as hereinafter mentioned, the Contractor undertakes to execute and complete the works and remedy defects therein in full compliance with the provisions of the contract.

4. The Contracting Authority hereby agrees to pay the Contractor in consideration of the execution and completion of the works and remedying of defects therein the amount of:
- Contract price (*including* VAT/other taxes): €.....
  - Contract price in words:..... Euro
- or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract. VAT shall be paid in compliance with National Law (in particular the VAT Act 1998, the Act No X of 2003 and relevant Legal Notices).
5. The Contractor hereby agrees to submit a performance guarantee amounting to €..... equivalent to 10% of the contract value together with the signed contract (if applicable).
6. In witness whereof the parties hereto have signed the contract. This contract shall take effect on the date on which it is signed by the last party.

Done in English in two originals: one for the Contracting Authority, and one for the Contractor.

|                                                                                                                                                                                                      |                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Contracting Authority:</b></p> <p>Signed by:</p> <p>.....</p> <p>In the capacity of:</p> <p>.....</p> <p>Being fully authorized by and acting on behalf of</p> <p>.....</p> <p>Date: .....</p> | <p><b>Contractor:</b></p> <p>Signed by:</p> <p>.....</p> <p>In the capacity of:</p> <p>.....</p> <p>Being fully authorized by and acting on behalf of</p> <p>.....</p> <p>Date: .....</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## VOLUME 2 SECTION 2 - GENERAL CONDITIONS

The full set of General Conditions for Services Contracts (Version 1.02 dated 2 June 2010) can be viewed / downloaded from:

[www.contracts.gov.mt/conditions](http://www.contracts.gov.mt/conditions)

It is hereby construed that the tenderers have availed themselves of these general conditions, and have read and accepted in full and without reservation the conditions outlined therein, and are therefore waiving any standard terms and conditions which they may have.

These general conditions will form an integral part of the contract that will be signed with the successful tenderer/s.



## VOLUME 2 SECTION 3 - SPECIAL CONDITIONS

These conditions amplify and supplement, if necessary, the General Conditions governing the contract. Unless the Special Conditions provide otherwise, those General Conditions remain fully applicable. The numbering of the Articles of the Special Conditions is not consecutive but follows the numbering of the Articles of the General Conditions. Other Special Conditions should be indicated afterwards.

### *Article 2: Notices and Written Communications*

- 2.2 Any written communication relating to this Contract between the Contracting Authority and the Contractor must state the Contract title and identification number, and must be sent by post, fax, e-mail or by hand to the addresses identified in accordance with article 20.7 of the General Conditions.
- 2.4 The language of the contract and of all written communications between the Contractor and the Contracting Authority and/or the Project Manager shall be English.

### *Article 5: Supply of Information*

- 5.1 Further to the provisions of the General Conditions, please refer to Volume 3 Section 1.

### *Article 6: Assistance with Local Regulations*

- 6.1 The Contractor shall be responsible for observing all applicable laws and regulations in the course of execution of this contract, including for procuring the necessary permits, licenses or other official authorizations that may be required for the undertaking of contract activities..

### *Article 7: Obligations of the Contractor*

- 7.8 As per General Conditions.

### *Article 13: Medical, Insurance and Security Arrangements*

- 13.3 As per General Conditions.

### *Article 14: Intellectual and Industrial Property Rights*

- 14.1.1 The Malta Environment and Planning Authority (MEPA) retains all rights to any information, maps and data provided by MEPA to the Contractor for the purposes of execution of the Contract. The Contractor shall not use, reuse, or distribute the data or any of its derivatives in any way or manner other than for the sole purpose of executing this Contract.
- 14.1.2 The Malta Environment and Planning Authority (MEPA) retain all rights to any information, maps and data provided by the Contractor through this tender.

### *Article 15: Scope of the Services*

- 15.1 The scope of the services is defined in Volume 3 (Terms of Reference)

### *Article 16: Personnel and Equipment*

- 16.3 As per General Conditions.

### *Article 18: Execution of the Contract*

- 18.1 The date for commencing performance shall be the date of signature of this contract by both parties and shall be determined by an administrative order issued by the Project Manager.

The performance period is 10 months from the commencement date.

### *Article 19: Delays in Execution*

19.2 The amount of liquidated damages for every day, or part thereof, elapsing between the period of execution and the actual end of the period of execution is as follows:

- 1/1000 of the contract price per day's delay, up to a limit of 20% of the total price

**Article 20: Amendment of the Contract**

20.2 As per General Conditions.

**Article 24: Interim and Final Progress Reports**

24.1 The Contractor must prepare progress reports as specified in Article 7 of Volume 3 Section 1 (Terms of Reference).

**Article 26: Payments and Interest on Late Payment**

26.1 This is a global-price contract.

Payments due from the Contracting Authority shall be made into the bank account notified by the Contractor in accordance with Article 20.7 of the General Conditions.

The payments will be made according to the following schedule, subject to the provisions of Articles 28 to 33 of the General Conditions:

| Month        | Narrative                                                                            | Percentage (%) |
|--------------|--------------------------------------------------------------------------------------|----------------|
| 3            | Completion of task C, identification of trail                                        | 25%            |
| 7            | Report of consultation & revision of trail that is satisfactory completion of Task E | 25%            |
| 10           | Balance - following approval of final report                                         | 50%            |
| <b>TOTAL</b> |                                                                                      | <b>100%</b>    |

26.2 The maximum period in which payments are to be effected is 60 days, failing which the provisions of the Late Payments Directive will come into effect.

**Article 27: Financial Guarantee**

27.2 Not applicable.

**Article 28: Audit Certificate**

28.4 Not applicable.

**Article 39: Further Additional Clauses**

39.1 The appointed Contractor shall be responsible for ensuring that in the process of delivering Contract results, the activities of the Contract do not result in a negative impact on the environment and that as much as possible, and measures are taken to ensure that the environmental and carbon footprint of these activities are minimized, offset or otherwise mitigated. In carrying out the activities of the Contract, the Contractor shall be responsible for sound environmental management of all aspects of the execution of the Contract in line with applicable regulatory requirements, environmental standards and best practices in this field.

39.2 Any dispute between the Parties that may arise during the performance of this contract and that has not been possible to settle otherwise between the Parties shall be submitted to the arbitration of the Malta Arbitration Centre in accordance with the Arbitration Act (Chapter 387) of the Laws of Malta. This law is based on "Model Law" which is the Model Law on International Commercial Arbitration adopted on June 21, 1985 by the United Nations Commission on International Trade Law reproduced in the First Schedule of the Arbitration Act.

## VOLUME 2 SECTION 4 - SPECIMEN PERFORMANCE GUARANTEE

### (LETTERHEAD OF THE REGISTERED FINANCIAL INSTITUTION PROVIDING THE GUARANTEE)

Director of Corporate Services  
Malta Environment and Planning Authority  
St. Francis Ravelin  
Floriana FRN1230  
Malta

[Date]

Dear Sir,

Our Guarantee Number..... for €.....

Account: [Account Holder's Name]

In connection with the contract entered into between yourself on behalf of the Director of Corporate Services (MEPA) and [Name and Address of Contractor] hereinafter referred to as "the Contractor" as per the latter's tender and your acceptance under [Tender Reference], whereby the contractor undertook the [title of contract] in accordance with Article 7.8 of the General Conditions for Service Contracts forming part of the contract documents, we hereby guarantee to pay you on demand a maximum sum of €[amount in works and numbers] in case the obligations of the above-mentioned contract are not duly performed by the Contractor.

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

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

Any payments due to the contractor in respect of the obligations entered into under the contract above referred to shall be made through this Bank.

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

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

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

This guarantee is personal to you, and is not transferable or assignable.

Yours Faithfully,

.....  
[Signatory on behalf of Guarantor]

**VOLUME 3 SECTION 1 - CONTRACTING AUTHORITY’S REQUIREMENTS (TERMS OF REFERENCE)**

*The following is a basic specimen of a set of Terms of Reference. These Terms should be drafted in a way so as to reflect the specific tender requirements.*

*The requirements listed in Clause 16 of the Instructions to Tenderers should be reflected in these Terms.*

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# Terms Of Reference

**Note:**

Where in this tender document a standard is quoted, it is to be understood that the Contracting Authority will accept equivalent standards. However, it will be the responsibility of the respective bidders to prove that the standards they quoted are equivalent to the standards requested by the Contracting Authority.

## 1. Background Information

### 1.1 - Beneficiary Country

Malta

### 1.2 - Central Government Authority

Department of Contracts

### 1.3 - Contracting Authority

Malta Environment and Planning Authority

### 1.4 - Relevant Country Background

The Maltese Islands are located in the centre of the Mediterranean Sea, south of Sicily. The Maltese Archipelago has a total land area of 316 sq. km and comprises 3 main islands - Malta (246 sq. km.), Gozo (67 sq. km.) and Comino (2.7 sq. km.). The general topography of the islands can be described as a series of low hills in the northern area with terraced slopes and planes on the southern part. Malta has a total population of 403, 532 (est. July 2008). This population intermingles with 1.12 million tourists who visit the Islands on an annual basis. Malta has the highest population density in Europe of some 1,282 persons per square kilometer. Approximately 64% of the total population lives in rural localities.

The consequences of this high population density are reflected in significant pressures on Malta's environment, including:

- Depletion of limited natural resources;
- Low availability of freshwater reserves per capita;
- High energy demand;
- Generation of various waste streams;
- Deterioration of the landscape;
- Intense urbanisation;
- Pressure on transport and communication networks;
- Decline of biodiversity; and
- Pollution from transport, industry, waste and energy facilities.

The economy of Malta is highly dependent on foreign trade and services. The only abundant natural resource is limestone, which is used in the construction industry. The most important asset in the Maltese economy remains the human resource. The main economic sectors include tourism, which is a major contributor to output growth, employment creation and foreign exchange generation, industry, in particular electronics in manufacturing industry, construction and real estate, and agriculture.

Malta's environment is essential for the quality of life and health of its citizens, as well as being part of the country's national identity and competitiveness for important economic sectors such as tourism. Given strong linkages with economic resources management, this sector has been recognised as being strategic to Malta's future development. Recent years have seen a dramatic increase in the extent of environmental initiatives, principally relating to upgraded regulation. Besides legislation, other instruments and measures such as permitting regimes, guidelines, economic instruments and administrative arrangements have been used.

Malta also acknowledges the fact that many rare and indigenous species are threatened and continue to decline. The main threats to Malta's biodiversity are urban development in rural and coastal areas, the introduction of alien species that may compete with native biodiversity and the exploitation of wildlife. An enhanced legal framework has been put in place to ensure the protection of ecologically important sites in the Maltese Islands.

### 1.5 - Current State of Affairs in the Relevant Sector

The Malta Environment and Planning Authority (MEPA) is the national authority responsible for regulation, monitoring and enforcement in the fields of environment and land use planning. MEPA's responsibilities include the designation, regulation and management of protected areas.

MEPA has partnered with 11 other organisations from 5 Mediterranean countries in a project entitled *MedPan North* which aims to improve the management of marine protected areas. This project is co-financed by the European Union through the Programme MED. One of the activities to be carried out under Medpan North project is the creation of an underwater trail for SCUBA and snorkeller divers within the Maltese marine protected area (MPA) between Rđum Majjiesa and Ras ir-Raheb.

Further information about this project can be found on MEPA's website under the following link: [http://www.mepa.org.mt/med\\_medpannorth](http://www.mepa.org.mt/med_medpannorth)

The MPA from Rđum il-Majjiesa to Ras ir-Raheb, refer to Figure 1 below, has been approved as a Site of Community Interest (SCI) under the EU Habitats Directive (Dir. 92/43/EEC) (HD) through Commission Decision of 28 March 2008 adopting, pursuant to Council Directive 92/43/EEC, a first updated list of sites of Community importance for the Mediterranean biogeographical region. This is the first Maltese marine area to form part of the Natura 2000 Network. Apart from hosting various natural habitats and species, this MPA is also popular for recreational activities including swimming, diving and snorkeling.

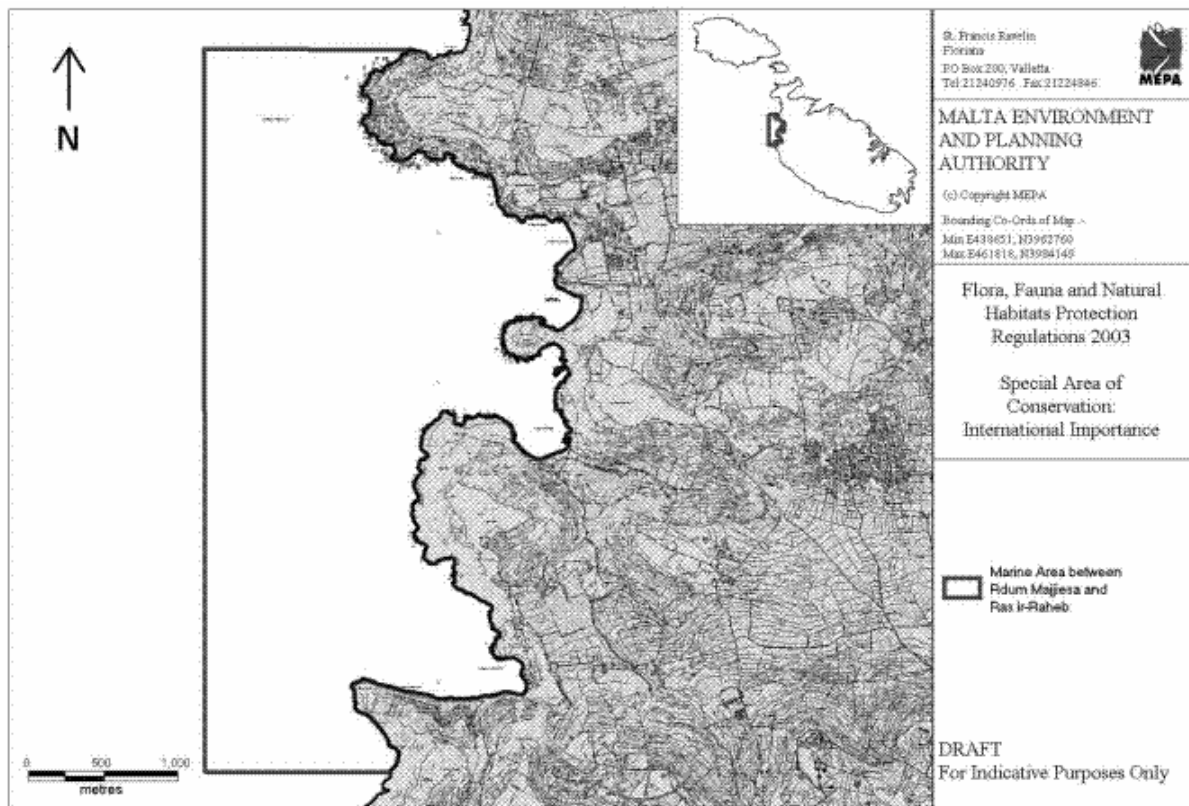


Figure 1 - Borders of the MPA

The MPA has an area of about 850 hectares and a coastal perimeter of 11 km. Information on the location of various habitats and on several species that are hosted within this MPA is already available. MEPA does hold significant data some of which is also available on its "Mapserver" at <http://www.mepa.org.mt/home?l=1>.

The area attracts a significant amount of visitors particularly between May and September. Most visitors visit the area to swim and some also to dive. Diving activities, including snorkelling, need to be directed away from particularly sensitive areas to other, more resilient areas which still offer an interesting experience. This will minimise impacts on sensitive benthic habitats. An underwater trail is one tool that may help to influence the divers' and snorkellers' behaviour. Furthermore, this will be the first underwater trail in the Maltese Islands and thus would hold a high potential to increase visitors to the MPA as well as serve as a means to attract tourists to Malta. It will also serve as a pilot project, which can be eventually implemented in other local MPAs.

### **1.6 - Related Programmes and Donor Activities**

In 2006 Malta has carried out a baseline study on the population of *Pinna nobilis* within the MPA situated between Rdum Majjiesa and Ras ir-Raheb. A protocol to study this species with the Mediterranean Sea was also compiled by the same expert that evaluated the population. These two activities were part of a project co-financed by the European Union European Regional Development Fund (ERDF) at a co-financing rate: 75% EU Funds; 25% National Funds under the regulations of the INTERREG III C

## **2. Contract Objectives and Expected Results**

### **2.1 - Overall Objectives**

The overall objective of the project of which this contract will be a part is:  
to improve MPA management efficiency to ensure effective protection of the marine environment in the Mediterranean

### **2.2 - Specific Objectives**

The objectives of this contract [which are not necessarily those of the project] are as follows:

Overall objective:

- To develop and implement, on site, an educational underwater trail, for use by SCUBA and snorkeller divers, and associated outreach material. The trail should encourage the appreciation of the marine environment.

Specific objectives of this contract are as follows:

- To gather information about the MPA that is relevant for this project.
- To identify suitable areas that can host an underwater trail.
- To gather information from and the opinion of stakeholders.
- To identify a suitable underwater trail.
- To provide information about and/or along the trail through the provision of panels, leaflets and plates.
- To prepare a comprehensive report about the project's details.

### **2.3 - Results to be achieved by the Consultant**

The results to be achieved are listed in Table 1 below. In order to fulfil these results, the contractor may wish to consult any published guidelines that are specific to the development of underwater trail and are extremely useful in the implementation of this tender's activities. The contractor is expected to achieve the results and timeframes indicated below.

|    | <u>Result</u>                                                    | <u>Completed by month</u> |
|----|------------------------------------------------------------------|---------------------------|
| A. | Work schedule                                                    | 0.5                       |
| B. | Report: Desktop study on interesting natural features in the MPA | 1.5                       |
| C. | Identification of a suitable trail                               | 3                         |
| D. | Consultation with stakeholders                                   | 5.5                       |
| E. | Report of consultation and revision of the trail                 | 6.5                       |
| F. | Detailed information on the trail                                | 8                         |
| G. | Land panel                                                       | 9                         |
| H. | Divers' information plate                                        | 9                         |
| I. | Underwater panels                                                | 8.5                       |
| J. | Installed panels                                                 | 9.5                       |
| K. | Outreach material                                                | 9.5                       |
| L. | Finalised comprehensive report                                   | 10                        |

Table 1 - Timeframes by which results are to be achieved

### 3. Assumptions and Risks

#### 3.1 - Assumptions Underlying the Project Intervention

None

#### 3.2 - Risks

Bad weather may not allow the planned schedule to be respected.

Certain habitats and/or species reported in older reports may have changed over time in the particular area where they were reported from. Hence a site survey would ensure that features as described in previous reports are cross-checked on site.

### 4. Scope of the Work

#### 4.1 - General

##### 4.1.1 Project Description

Through this project a marine underwater trail will be installed. This will have parts of it suitable for divers and snorkellers. The trail will include the installation of a number of panels and buoyant charts so that these can provide information to interested parties.

##### 4.1.2 Geographical Area to be covered

West of Malta.

##### 4.1.3 Target Groups



The general public, stakeholders, non-governmental institutions, government institutions

#### **4.2 - Specific Activities**

In order to achieve the results mentioned in the previous section, a number of activities have to be carried out. These activities are to be performed by the contractor and are listed and described below. The contractor must also observe the latest visibility guidelines concerning acknowledgement of EC financing of the project.

|    | <u>Result</u>                                             | <u>Activity</u>                                                                                             | <u>Description of the Activity</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <u>To be completed by month</u> |
|----|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| A. | Work schedule                                             | Contractor to prepare a work schedule to reflect the contract's timeframes and milestones.                  | This work schedule is necessary to have an established framework against which MEPA may check progress. MEPA will also be able to assess how the contracted activities will be implemented. The schedule shall be in the format of a Gantt chart and needs to be submitted to MEPA for discussion and approval.                                                                                                                                                                                                                                                                                                                                                     | 0.5                             |
| B. | Report: Study on interesting natural features in the MPA. | Contractor to collate information about the MPA and its natural elements through a desk and/or field study. | A desk study needs to be carried out to gather data which is relevant for the identification of adequate routes for the underwater trail. The information will include physical characteristics of the seabed, biodiversity elements and other relevant information in the identification and setting up of an underwater trail. The information gathered shall be analysed to identify potential areas which could be included in the trail and other areas which require further surveying. On-site surveying shall be carried out as necessary to fill in any data gaps. The findings of this activity need to be submitted to MEPA for discussion and approval. | 1.5                             |

|    |                                    |                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |   |
|----|------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| C. | Identification of a suitable trail | <p>Contractor to identify the trail</p> <p>The trail will be surveyed to gather an overview. These surveys do not need to be detailed.</p> | <p>Following the assessment of the preliminary data that has been gathered and any on-site surveys required to confirm which proposed routes are adequate; the potential trail shall be identified and proposed to MEPA.</p> <p>The trail must have the following characteristics:</p> <ul style="list-style-type: none"> <li>▪ Include elements of interest to both snorkellers and SCUBA divers. It shall include representative ecological communities, habitats and species of the MPA but avoiding sensitive biodiversity;</li> <li>▪ The overall length of the trail should be discussed with MEPA;</li> <li>▪ Be located at different depths to be accessible to snorkellers and SCUBA divers. The deepest parts should not be deeper than 18 meters but most of the trail should be located at depths above 10 meters (suitability for both snorkellers and divers must be seriously considered);</li> <li>▪ Have the entry and exit points easily accessible from land and be accessible to all diving schools and individual divers. The trail should have different starting points, including ones from boat, so that there may be tracts of the trail that have different time duration to be completed. The weight of the diving equipment must be taken into consideration when selecting such points;</li> </ul> <ul style="list-style-type: none"> <li>▪ The Contractor must also:</li> <li>▪ Take into consideration the socio-economic activities already existing within the area;</li> <li>▪ Consider the relevant law, policies and proposed zoning scheme, especially the no-entry zones, and relevant management measures found in the “Rdum Majjiesa to Ras ir-Raheb Marine Protect Area - A Management Framework for the Marine Environment”. This is available at MEPA and will be provided to the contractor upon request.</li> </ul> <p>The contractor will submit proposed routings of the trail to MEPA, accompanied by the relevant supporting documentation and justification for choosing these routes. The advantages and disadvantages of each route (and its alternatives) shall also be submitted to MEPA, together with an order of suitability and preference of the proposed routes, MEPA may ask for changes within the trail based on reasoning related to the impact on the environment, stakeholders’ use or other.</p> <p>The trail needs to be submitted to MEPA and requested amendments must be made.</p> | 3 |
|----|------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|

|    |                                            |                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |     |
|----|--------------------------------------------|------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| D. | Consultation with stakeholders             | Contractor to collect and analyse stakeholders' comments, views and preferences          | <p>The contractor must:</p> <ul style="list-style-type: none"> <li>▪ Identify all potential stakeholders (including but not limited to SCUBA divers, snorkelers and other potential users; Malta Tourism Authority, Mgarr, Rabat and Mellieha Local Councils). If the trail passes through a historical fishing ground, then consultation with fishers of that area must be conducted. The list of stakeholders resulting from this stakeholder identification exercise shall be submitted to MEPA and approved by MEPA prior to proceeding with the next activity;</li> <li>▪ Organise and conduct stakeholders' consultation to discuss the proposed trail, physical characteristics, such as depth and access; interesting elements and logistics. MEPA will provide the premises where consultation can take place. The contractor must ensure that MEPA's premises are available on the required date. If such premises are unavailable on a chosen date, the contractor is responsible to ensure that consultation can either take place elsewhere or else on another date.</li> <li>▪ The contractor must be able to communicate in both Maltese and English when consulting stakeholders.</li> </ul> | 5   |
|    |                                            | Contractor accompanied with selected stakeholders and MEPA personnel will test the trail | The contractor will randomly select interested divers, snorkellers and interested parties as well as accept any other party interested. These have to be submitted for MEPA's approvals as necessary. These will be invited to a first trial run of the trail. The experiences of each one of them will be recorded and assessed. A rated experience procedure is to be conducted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 5.5 |
| E. | Report of consultation & revision of trail | Contractor to draft and finalise report following consultation with stakeholders.        | <p>Comments received following consultations with stakeholders and testing of the trail shall be collated in a single document, analysed and findings submitted to MEPA. The trail shall also be amended as required following stakeholder consultation and trail testing to reflect the outcomes if these are deemed as appropriate and valid comments. Revisions shall be submitted to MEPA.</p> <p>Following the above, the contractor shall select the best routings (including alternatives), and together with appropriate justification, propose it to MEPA for discussion and approval. MEPA reserves the right to select different routes if deemed best.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 6.5 |
| F. | Detailed information on the trail.         | Contractor to collate detailed information about the trail.                              | Detailed information on the natural and other elements along the selected trail and its logistics will be compiled. This would lead to identify the interesting features along the route together with some information about each feature. Not less than 30 photographs of interesting elements associated with the trail should be taken. A report containing the information and separately the high resolution photographs will be submitted to MEPA for use at MEPA's discretion. MEPA will have exclusive rights on their use.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 8   |

|    |                            |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |   |
|----|----------------------------|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| G. | Land panel                 | Contractor to prepare a land panel.            | <p>One panel, to be installed on land at the beginning and end of trail, shall be prepared by the contractor. The aim of this panel is to provide an overview of the trail and encourage its use.</p> <p>The panel's size should not be less than 40 x 60 cm;</p> <ul style="list-style-type: none"> <li>▪ Material must be: weather proof; durable; not fade with time and vandal-proof as much as possible;</li> <li>▪ Text must be in English and Maltese (different font size and colour).</li> </ul> <p>The contractor, prior to installing the panel, must check whether the land is publicly or privately owned and obtain relevant permissions accordingly. The draft text and artwork of each panel shall be submitted to MEPA for its approval prior to their fabrication.</p>                                                                                                                                                                                                                                                                                                                                           | 9 |
| H. | Divers' information plate. | Contractor to prepare a divers' plastic plate. | <p>A plate which may be taken underwater by the divers and snorkellers making use of the trail shall be prepared by the contractor. This will show habitats, species and other interesting features likely to be encountered along the trail.</p> <p>The plate must have the following characteristics:</p> <ul style="list-style-type: none"> <li>▪ Size: approx 20 x 25 cm;</li> <li>▪ The material of the plates shall be: water-proof similar to plastic; durable and bent-proof;</li> <li>▪ The scientific, English and Maltese names of biodiversity, including fish, that may be encountered along the trail must be shown together with an image of each species or habitat;</li> <li>▪ Text must be in Maltese and English but MEPA reserves the right to select only one language.</li> </ul> <p>MEPA will be presented with draft text and layout of the plate, together with a sample of possible material to be used for the plates, for approval. The printing in bulk of these plates is not part of this tender but a finished sample has to be presented to MEPA. MEPA will have exclusive rights on its use.</p> | 9 |

|    |                   |                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |     |
|----|-------------------|----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| I. | Underwater panels | Contractor to prepare at least 10 underwater panels.     | <p>The contractor shall prepare at least 12 underwater panels. These panels will serve as on-site interpretation panels and will help the trail's user to appreciate the elements therein. Each panel will provide a brief description on the interesting elements along that part of the trail.</p> <p>The panels:</p> <ul style="list-style-type: none"> <li>▪ Must be durable, capable of withstanding impacts caused by severe weather and sea conditions; must be securely anchored and can be disassembled during winter;</li> <li>▪ Must be easy to clean and easy to see in the dark.</li> </ul> <p>Also, the panels':</p> <ul style="list-style-type: none"> <li>▪ Printing should not fade with time;</li> <li>▪ Text must be in English and Maltese (different font size and colour) but MEPA reserves the right to select only one language;</li> <li>▪ Size should be about 40 x 60 cm and shall be determined after discussion with MEPA;</li> <li>▪ Supplier must be able to give a guarantee on the quality of these panels.</li> </ul> <p>The draft text and artwork of each panel shall be submitted to MEPA for approval. A sample panel shall be presented to MEPA for its approval prior to their fabrication.</p> | 8.5 |
| J. | Installed panels  | Contractor to install panels along the trail and on land | <p>The panels, previously approved by MEPA and referred to in tasks G and I, will be produced and installed on site by the contractor. Underwater panels may be installed by attaching them to floating buoys but ensuring that they are in such a manner that can be viewed and read by the trail user. The contractor must also ensure that the work is done diligently, according to standards of the trade, and in a manner so as to cause the least disturbance to the environment. Each panel's location has to be approved <i>a priori</i> by MEPA and the necessary permits have to be applied for and obtained by the Contractor.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 11  |

|    |                                |                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |     |
|----|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| K. | Outreach material              | Contractor to collate, design and prepare the artwork for educational and promotional material.                                                    | <p>Finalised printable outreach and marketing material shall be prepared. This shall include an A4 leaflet. These will provide information about the trail, including species, habitats and features, likely to be encountered and the trail's logistical details. The aim is to create interest and provide information and promote its use with potential users.</p> <p>Two separate leaflets must be prepared. One in Maltese and the other translated into English.</p> <p>The contractor will discuss the preparation of each of these items with MEPA and will present to MEPA the final draft of each item in this activity. The contractor is expected to make the changes asked for by MEPA, if any. The printing in bulk of these items is not part of this tender but upon approval by MEPA the contractor shall present a printed version of the leaflets. Finalised versions of all of the above material should be submitted to MEPA in soft and hard copy. The soft copy should be in an editable format and in a manner allowing professional printing of multiple copies of each. MEPA will have exclusive rights on its use.</p>                           | 9.5 |
| L. | Finalised comprehensive report | Contractor to collate information on the process of creating an underwater trail, details on elements of the trail and other relevant information. | <p>A report explaining the details of the procedure and methodology employed and other characteristics related to the underwater trail, including detailed descriptions of its elements shall be submitted to MEPA. The report must also contain management aspects of the trail, such as how the panels should be maintained, as well as giving an indication of the maximum carrying capacity of the trail in different times of the day and year respectively, and outlining possible means for how this trail can generate funds following project completion. This may be in the form of having a tour to guide divers, and audiophones, etc. MEPA will review this report and re-submit to the contractor who shall carry out the required amendments, if any, not later than 4 weeks after receipt of MEPA's comments. The report has to be finalised by month 10 which is the last month of the contract.</p> <p>If the information on the features is taken from sources already available it will be the responsibility of the contractor to ensure that this information is correct and can be reproduced to reach the objectives and results of this tender.</p> | 10  |

### **4.3 - Project Management**

#### **4.3.1 Responsible Body**

The overall responsibility of the implementation of this contract lies with MEPA. An official will be appointed to oversee the implementation of the contract.

#### **4.3.2 Management Structure**

MEPA is the competent authority in relation to the management of special areas of conservation, including marine protected areas, through the Flora and Fauna Natural Heritage Protection Regulations, 2006 (LN 311 of 2006 as amended). The Director of Environment (DoE) is responsible for this project. The DoE may delegate various tasks to officials appointed to oversee the implementation of this contract.

#### **4.3.3 Facilities to be provided by the Contracting Authority and/or other parties**

MEPA will provide facilities for meetings if necessary. In such cases meetings have to be agreed by the contractor and MEPA. .

## **5. Logistics and Timing**

### **5.1 - Location**

Republic of Malta. The compilation of reports, preparation of informative material for printing and the fabrication of information panels may be carried out elsewhere. The contractor is expected to perform most of the work from own premises. MEPA will provide facilities for meetings with the contractor and for consultation with stakeholders. The contractor should be available during office hours via e-mail and telephone.

### **5.2 - Commencement Date & Period of Execution**

The intended commencement date is the contract's signature date and the period of execution of the contract will be 10 months from this date. Article 18.1 of the Special Conditions will determine the actual commencement date and period of execution.

## **6. Requirements**

### **6.1 - Personnel**

#### **6.1.1 Other Experts**

CVs for experts other than the key experts are not examined prior to the signature of the contract.

The Consultant shall select and hire other experts as required according to the profiles identified in the Organisation & Methodology and these Terms of Reference. For the purposes of this contract, international experts are considered to be those whose permanent residence is outside the beneficiary country while local experts are considered to be those whose permanent residence is in the beneficiary country.

The Consultant should pay attention to the need to ensure the active participation of local professional skills where available, and a suitable mix of international and local staff in the project teams. All experts must be independent and free from conflicts of interest in the responsibilities accorded to them.

The selection procedures used by the Consultant to select these other experts shall be transparent, and shall be based on pre-defined criteria, including professional qualifications, language skills and work experience. The findings of the selection panel shall be recorded. The selection of experts shall be subject to approval by the Contracting Authority.



Note that civil servants and other staff of the Public Service of the beneficiary country cannot be recruited as experts. See sub-article 9.5 of the General Conditions.

#### **6.1.2 Support Staff and Backstopping**

Nil

#### **6.2 - Accommodation**

Office accommodation of a reasonable standard and of approximately 10 square metres for each expert working on the contract is to be provided by the Consultant.

#### **6.3 - Facilities to be provided by the Consultant**

The Consultant shall ensure that experts are adequately supported and equipped. In particular it shall ensure that there is sufficient administrative, secretarial and interpreting provision to enable experts to concentrate on their primary responsibilities. It must also transfer funds as necessary to support its activities under the contract and to ensure that its employees are paid regularly and in a timely fashion.

The contractor shall provide The adequate equipment, software and hardware needed for carrying out the surveys, data gathering, storage, analysis and evaluation.

If the Consultant is a consortium, the arrangements should allow for the maximum flexibility in project implementation. Arrangements offering each consortium partner a fixed percentage of the work to be undertaken under the contract should be avoided.

#### **6.4 - Equipment**

No equipment is to be purchased on behalf of the Contracting Authority / beneficiary country as part of this service contract or transferred to the Contracting Authority / beneficiary country at the end of this contract. Any equipment related to this contract which is to be acquired by the beneficiary country must be purchased by means of a separate supply tender procedure.

### **7. Reports**

#### **7.1 - Reporting Requirements**

An interim progress report must be prepared at the seventh month during the period of execution of the contract. It must be accompanied by a corresponding invoice.

There must be a final progress report and final invoice at the end of the period of execution. The draft final progress report must be submitted at least two weeks before the end of the period of execution of the contract. Note that these interim and final progress reports are additional to any required in Section 4.2 of these Terms of Reference.

#### **7.2 - Submission & approval of progress reports**

2 copies of the progress reports referred to above must be submitted to the Project Manager identified in the contract. The progress reports must be written in English. The Project Manager is responsible for approving the progress reports.

### **8. Monitoring and Evaluation**

#### **8.1 - Definition of Indicators**

|    | <b>Result</b>                                                    | <b>By month</b> | <b>Verifiable Indicator</b>                                                                               | <b>Sources of verification</b>                                                  |
|----|------------------------------------------------------------------|-----------------|-----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| A. | Work schedule                                                    | 0.5             | Scoping report with a Gantt chart                                                                         | MEPA official will review the scoping report                                    |
| B. | Report: Desktop study on interesting natural features in the MPA | 1.5             | Report giving relevant details for the identification of suitable trail                                   | MEPA official will review report                                                |
| C. | Identification of suitable trail                                 | 3               | Short report giving relevant details about the trail                                                      | MEPA will approve at its satisfaction the underwater trail                      |
| D. | Consultation with stakeholders                                   | 5.5             | Report of consultations incorporating and changes in the trail as deemed better                           | Attendance by MEPA official to consultation sessions and review of report       |
| E. | Report of consultation and revision of trail                     | 6.5             | Report giving details of consultation and input received from stakeholders and trail revised as necessary | MEPA will approve to its satisfaction the report.                               |
| F. | Detailed information on the trail                                | 8               | Report providing details of the identified trail                                                          | MEPA will approve the report about the trail after it achieves its expectations |
| G. | Land panels                                                      | 9               | 1 panel presented to MEPA                                                                                 | MEPA will approve the panels to its satisfaction                                |
| H. | Divers' information plate                                        | 8.5             | 1 divers' information plate presented to MEPA                                                             | MEPA will approve the plate to its satisfaction                                 |
| I. | Underwater panels                                                | 9.5             | 10 panels presented to MEPA                                                                               | MEPA will approve the panels to its satisfaction                                |
| J. | Installed panels                                                 | 9.5             | Panels installed in place                                                                                 | MEPA will be presented with photographs of such panels in place                 |
| K. | Outreach material                                                | 9.5             | Copy of outreach material                                                                                 | MEPA will review and approve outreach material                                  |
| L. | Finalised comprehensive report                                   | 10              | Full report of the project's details.                                                                     | MEPA will review and approve to its satisfaction the report                     |

## 8.2 - Special Requirements

Mapping technicalities: Digital mapping shall follow the National Grid/Universal Transverse Mercator Grid (UTM) as described by the National Reference System.

Projection:  
Ellipsoid:  
Datum:  
Grid:

**Universal Transverse Mercator Zone 33S**  
**Hayford International**  
**European Datum 1950**  
**UTM Zone 33 S**

|                               |                                          |
|-------------------------------|------------------------------------------|
| Projection:                   | <b>Universal Transverse Mercator</b>     |
| Ellipsoid:                    | <b>International (Hayford)</b>           |
| Unit of measurement:          | <b>Metre</b>                             |
| Meridian of Origin:           | <b>15° East of Greenwich</b>             |
| Latitude of Origin:           | <b>Equator</b>                           |
| Scale Factor at Origin:       | <b>0.9996</b>                            |
| False co-ordinates of Origin: | <b>500,000 m Easting, Nil m Northing</b> |
| Datum:                        | <b>European 1950</b>                     |

All reports, power point presentations, informative material, information panels and other printed material produced through this tender must clearly state that this project is financed by the European Regional Development Fund through the Programme MED and shall adhere to the official regulations that govern the Territorial Cooperation Programmes. The Contractor shall consult the relevant publicity guidelines for Territorial Cooperation projects issued by the Planning and Priorities Coordination Department (PPCD) [[www.ppcd.gov.mt](http://www.ppcd.gov.mt)], to ensure that the correct publicity text and logos are used.

The contractor must take into consideration the safety aspects when planning the trail.

# VOLUME 3 SECTION 2 - TENDERER'S TECHNICAL OFFER (ORGANIZATION & METHODOLOGY)

To be completed by the tenderer

## 1. RATIONALE (30%)

- Any comments on the Terms of reference of importance for the successful execution of activities, in particular its objectives and expected results, thus demonstrating the degree of understanding of the contract. **Any comments contradicting the Terms of reference or falling outside their scope will not form part of the final contract**
- An opinion on the key issues related to the achievement of the contract objectives and expected results
- An explanation of the risks and assumptions affecting the execution of the contract

## 2. STRATEGY (50%)

- An outline of the approach proposed for contract implementation
- A list of the proposed activities considered to be necessary to achieve the contract objectives
- The related inputs and outputs
- In the case of a tender being submitted by a consortium, a description of the input from each of the consortium partners and the distribution and interaction of tasks and responsibilities between them
- A description of the support facilities (back-stopping) that the team of experts will have from the contractor during the execution of the contract
- A description of sub-contracting arrangements foreseen, if any and within the limit indicated in clause 3 of the Instructions to tenderers, with a clear indication of the tasks that will be entrusted to a sub-contractor and a statement by the tenderer guaranteeing the eligibility of any sub-contractor

## 3. TIMETABLE OF ACTIVITIES (20%)

- The timing, sequence and duration of the proposed activities, taking into account mobilisation time
- The identification and timing of major milestones in execution of the contract, including an indication of how the achievement of these would be reflected in any reports, particularly those stipulated in the Terms of reference

## VOLUME 4 - FINANCIAL BID

### (GLOBAL PRICE CONTRACTS)

Global price for [description of service/s] as outlined in the Tender Document, Advert Number ...../.....:

| Description                                                                     | Price inclusive of all taxes but excluding VAT<br>Amount in Euro (€)                     | VAT<br>Amount in Euro (€)                                                                | Total inclusive of VAT<br>Amount in Euro (€)                                             |
|---------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| <div style="background-color: yellow; padding: 2px;">[insert Description]</div> | €.....<br><br>Amount in Words:<br><br>.....<br>.....<br>.....<br>.....<br>.....<br>..... | €.....<br><br>Amount in Words:<br><br>.....<br>.....<br>.....<br>.....<br>.....<br>..... | €.....<br><br>Amount in Words:<br><br>.....<br>.....<br>.....<br>.....<br>.....<br>..... |