

**Annex II to the Invitation to Tender**

**Frontex/OP/852/2017/RS**

## **Terms of Reference**

**Framework Contract for leasing of off-road vehicles for Frontex operational activities**

## 1. Acronyms and Definitions

Acronym	Definition
ABS	Antilock Braking System
Category M1, symbol G	As defined under Annex II of the DIRECTIVE 2007/46/EC of the European Parliament and of the Council
CDW	Collision Damage Waiver
CM	Contract Manager
EEA	European Economic Area
ESC	Electronic Stability Control - electronic control function for a vehicle which improves the dynamic stability of the vehicle (Article 3 of Directive 2007/46/EC)
ESP	Electronic Stability Program
EU	European Union
EURO 6	Euro 6 (2014) for light passenger and commercial vehicles - 459/2012/EC <sup>1</sup>
FCM	Frontex Contract Manager
Frontex	European Border and Coast Guard Agency
FWC	Framework Contract
HP	Horse power
KW	Kilo Watts
LDW	Loss Damage Waiver
LI	Third-party liability insurance
MS	A Member State of the European Union
SAC	Schengen Associated Country
SBS	Seat-belt reminders - system that detects the presence of occupants on front and rear seating positions and monitors their belt status. In order to encourage seat belt use, an audible and/ or visual warning is issued if occupants are not wearing a seat belt
SO/SOs	Specific Order/Specific Orders
TCS	Traction Control System
ToR	Terms of Reference
TP	Theft Protection
TS	Tender Specifications

<sup>1</sup> Commission Regulation (EU) No 459/2012 of 29 May 2012 amending Regulation (EC) No 715/2007 of the European Parliament and of the Council and Commission Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles

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## 2. Introduction to Frontex

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The European Border and Coast Guard Agency - Frontex (hereinafter referred to as “Frontex”) was established by the Council Regulation (EC) Regulation (EU) 2016/1624 with a view to improve the integrated management of the external borders of the Member States of the European Union.

In pursuit of this goal, Frontex plans, coordinates, implements and evaluates joint operations conducted using Member States’ staff and equipment at the external borders of European Union.

The Regulation (EU) 1624/2016 laid down in Article 8 that the Agency shall contribute to an efficient, high and uniform level of border control and return including by setting up a technical equipment pool to be deployed in joint operations, rapid border interventions and in the framework of migration management support teams, as well as in return operations and return interventions.

In addition, the Article 39 defines the composition of the technical equipment pool into equipment owned either by the Member States or by the Agency and equipment co-owned by the Member States and by the Agency for its operational activities. In the same time, the Article 38 of the abovementioned EU Regulation provisions, ensures the legal basis for Frontex to develop its own operational capacity by acquiring itself or in co-ownership with a Member State or to lease technical equipment for external border control in accordance with the financial rules applicable to the Agency.

Further information about Frontex origin, organisation, its mandate, fields of activities, strategy and planned activities can be read on the Agency’s web site: [www.frontex.europa.eu](http://www.frontex.europa.eu)

### 3. Subject

This document defines terms and conditions for 36 months lease period of off-road vehicles for Frontex operational activities. The vehicles will be used mainly in Bulgaria and Greece. However, the Contractor shall acknowledge that the leased vehicles can be redeployed to other locations in Europe, including Third Countries.

The scope of this document is to describe the minimum requirements for the requested services and to ensure that the services carried out during the implementation comply with Frontex requirements.

The Terms of Reference will become an integral part of the Framework Contract (hereinafter called “FWC”) that may be awarded as a result of the open tender procedure.

All the information delivered in this document, its annexes and other related documents shall be taken into consideration by the Tenderers in their offers and by the Contractor during the contract’s lifecycle.

#### 3.1. Current Situation

The operational experience and the challenges encountered during the planning of the deployment of equipment has confirmed the conclusion that one of the most important characteristics of the technical assets is their availability.

Currently Frontex deploys technical equipment solely put on disposal by the MSs/SACs. To this end, annual bilateral negotiations should be carried out by the Agency in order to establish the availability for deployment of both technical equipment and human resources to be committed by Frontex and MS/SACs, in order to meet the operational needs and to improve the planning capabilities.

The compilation of multiple factors such as Frontex operational needs, operational effectiveness of the available equipment and its availability, the available budget and the impacts that the deployment of the equipment should have on national level related to the border control of the MS who owned the equipment may result in a low level of operational flexibility and gaps of equipment to be deployed on Frontex operational activities.

At present, in order to bridge such gaps in the deployment of vehicles, the following solutions are used:

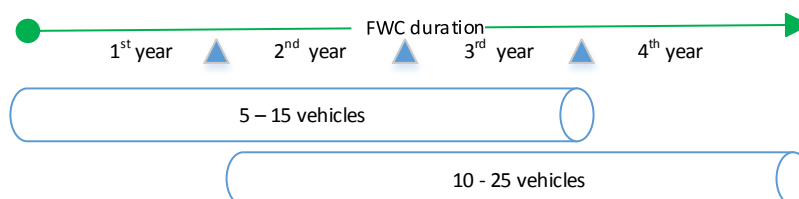
- Relying on the willingness/capacity of the Host Member States to contribute to Frontex Joint Operations by deploying a higher number of assets (vehicles) than initially negotiated;
- Deploying the same individual asset several times in a year;
- Renting equipment (vehicles).

#### 3.2. Target Situation

As an addition to the current solution Frontex is looking to establish a FWC for leasing of off-road vehicles. The overall duration of the FWC in no event may exceed four (4) years.

The possible quantity of services to cover all four (4) years of the FWC is as follows:

- 1<sup>st</sup> year: ≈ 5 - 15 vehicles;
- 2<sup>nd</sup> year: ≈ 10 - 25 vehicles.



The information given in #3.2. of this document is indicative and cannot be considered as automatically constituting any form of commitment by Frontex unless otherwise specified.

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## **4. Description of the assignment**

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### **4.1. Objective and tasks**

The objective of this contract is to provide Frontex with leased off-road vehicles offered with a comprehensive range of services as

- full insurance (including collision, casualty, liability, theft and other physical damages - other than collision or theft),
- green cards,
- maintenance and repairs,
- tyres management.

The FWC will be implemented through SO. Detailed procedure and time limits for establishing and implementing a SO are described both in # 7 of these Terms of Reference.

Traffic fine management shall be performed by Frontex, therefore the Contractor has an obligation of immediate notification (3 days) to redirect any related documentation to Frontex contract management personnel.

### **4.2. Contract management personnel**

#### **4.2.1. Contractor's personnel**

The Contractor shall be responsible for providing all necessary personnel to ensure the satisfactory performance of its obligations under the FWC and shall supervise and be fully responsible and liable for all the services performed by its personnel and for their compliance with the terms and conditions of the FWC.

During the implementation of the FWC and its SOs the Contractor shall nominate a Contract Manager (CM) for all contractual matters. CM will act as a single contractual contact point. All the correspondence related to the FWC (including the implementation of the SOs) will be addressed to him.

#### **4.2.2. Frontex personnel**

For the proper implementation of the FWC and its SOs Frontex will nominate a Frontex Contract Manager (FCM), who will act as a single contact point for all the matters related to the FWC implementation, including the implementation of the SOs.

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## 5. Minimum technical requirements

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All services rendered for the Leasing of off-road vehicles for Frontex operational activities shall meet the minimum technical requirements set out within the present Terms of Reference.

The vehicles will be leased under the following conditions:

- Estimated average mileage of vehicles during the lease period is 100 000 km/vehicle;
- No limit of the drivers;
- No restrictions for travelling abroad.

### 5.1. Vehicle

#### 5.1.1. Type and specifications

The vehicle/s shall be

- Off-road vehicle/s (category M1, symbol G);
- Left hand drive model;
- 4+1 doors;
- Year of manufacture - maximum 12 months from the moment of ordering;

and shall have a seating capacity of 5 people.

Colour of the vehicle/s will be defined by Frontex and communicated to the Contractor when signing a specific contract and shall not influence the cost.

#### 5.1.2. Size or dimensions

- External width (excluding side mirrors) min 1850 mm;
- External length min 4750 mm;
- External height min 1700 mm;
- Luggage space volume (seatbacks raised): min 450 litres.

#### 5.1.3. Engine and transmission

- Diesel motor vehicle;
- Category of emissions of exhaust - min. Euro 5<sup>2</sup>;
- Engine:
  - Displacement (cc): min 2000 - max 3000;
  - Power(HP): min. 150
- Manual or automatic gearbox (min. 5 gear + reverse).

#### 5.1.4. Wheels and tires

- Dimensions - min. R16;
- Profile of tires - min. all-terrain (AT) tires;
- Wheels rims material - min. alloy for summer tires;
- Spare wheel with full size tyre identical to other wheel;
- Number of tires: 4 summer tyres + 4 winter tyres + 1 spare tyre (all with rims included).  
(Note: all-season tyres will be considered equivalent to summer tyres).

#### 5.1.5. Off-road performance

The proposed vehicles shall have:

- at least one front axle and at least one rear axle designed to be driven simultaneously (including vehicles where the drive to one axle can be disengaged),
- at least one differential locking mechanism or at least one mechanism having a similar effect.

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<sup>2</sup> Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information

In addition, they must satisfy at least five of the following six requirements:

- the approach angle must be at least 25 degrees,
- the departure angle must be at least 20 degrees,
- the ramp angle must be at least 20 degrees,
- the ground clearance under the front axle must be at least 180 mm,
- the ground clearance under the rear axle must be at least 180 mm,
- the ground clearance between the axles must be at least 200 mm.

#### **5.1.6. Safety and security**

- ABS, ESC and TCS or equivalent;
- front and rear disc brakes;
- min. airbag system for driver and front passenger;
- all seats must be fitted with 3 point adjustable safety seatbelts and height adjustable headrests;
- seat-belt reminders (SBS) or similar;
- exterior mirrors (side mirrors): power adjustable and heated;
- fog lamps - min. rear;
- anti-theft system (alarm system and/or key immobilizer);
- central locking and remote control system.

The additional safety and security requirements listed below are not compulsory but if offered may result in obtaining additional number of points during the technical evaluation.

- tire pressure monitoring system or similar;
- electrochromic internal mirror;
- power retractable exterior mirrors (side mirrors);
- automatic headlamp adjustment;
- front and rear parking sensors (sensor system shall give the distance information with audible alarms as minimum);
- headlight washers;
- rain sensors.

#### **5.1.7. Interior comfort specifications**

- Power assisted steering wheel, adjustable in terms of height and depth;
- Air conditioning manual or better;
- Min. driver seat adjustable in terms of height and depth;
- Min. overhead front reading lights;
- Sun protective tinted windows;
- Integrated car navigation system, including the whole road map of Europe;
- Audio system (min.radio) including front and rear music speakers plus antenna;
- Electric powered windows (front and rear);
- Folding rear seat backrest in the 60:40 or 50:50 or 40:20:40 ratio;
- Durable upholstery on seats;
- Rubber floor mat set for front/rear seats.

The additional interior comfort requirements listed below are not compulsory but if offered may result in obtaining additional number of points during the technical evaluation.

- on-board computer;
- programmable auxiliary heating system.

#### **5.1.8. Electrical system**

- The electrical system is to have the battery/alternator supplied in the largest capacity available for the particular model. The battery is to support (if needed) the operation of a light bar, two-way radio etc.
- Vehicle is to be supplied with a 12 volt (cigarette lighter) socket capable of supporting a handheld heavy duty searchlight.



#### **5.1.9. Additional equipment**

- Engine and gearbox protection shield/s;
- Tow rope and front/rear shackles to connect the tow rope;
- Car-jack;
- Tools set;
- Vehicle First-aid kit;
- Warning triangle;
- Spare set of bulbs;
- Highly visible safety vest;
- Fire extinguisher;
- Snow chains: for four wheels as per offer.

The additional requirements listed below are not compulsory but if offered may result in obtaining additional number of points during the technical evaluation:

- Rear tow bar for trailer installed and connected to an electrical installation (the requested towing capacity is min. 1500 Kg with brakes);
- Roof rails or similar for fixing of racks;
- Electrical winch (installed on the vehicle) with remote control;
- Front and rear mud flaps.

#### **5.1.10. Warranty and technical maintenance**

- The Contractor shall:
  - warrant:
    - a minimum factory warranty of 3 years which shall be counted from the date of delivery. A longer warrantee period may be offered but without any extra cost for Frontex.
    - that the vehicles are new, unused (maximum 200 km on the odometer), of the most recent models and incorporate all recent improvements in design and materials.
    - that none of the vehicles have any defect arising from design, materials or workmanship.
  - ensure the implementation of the contract for warranty repairs on all operating officially authorised service centres.
- During the lease time the Contractor shall ensure Frontex that under the contract terms and conditions the in-service (compulsory) vehicle maintenance will be performed in authorised services at the countries of deployment as specified under #3. If not otherwise agreed with the Contractor, the maintenance of the vehicles deployed in Third Countries will be implemented only in an authorised service located in a EU MS. In this respect The Contractor shall ensure Frontex that adequate arrangements to carry out aforementioned obligations will be in place when needed.

#### **5.1.11. Other requirements and information to be provided**

- The vehicles must be supplied in running order and equipped to meet all legal requirements to enable them to be driven in area/region of operation where they will be deployed;
- The vehicles shall have no stickers or labels on the car body. The Contractor accepts that Frontex may attach removable stickers to the vehicles containing the Frontex logo for the duration of the contract in order to ensure visibility during its activities.
- The tenderer must guarantee that, if during the duration of the FWC the proposed vehicle model would become unavailable, it will be replaced by the model which has at least the same minimum specifications as the original proposed model and that it will be offered at the same conditions;
- Delivery time shall not exceed 4 months from the date of signature of the order/specific contract to the date of vehicle/s reception;

- The vehicle must be provided with a full set of manuals (in English) and documentation, service logbook, service schedule and maintenance instructions, as well as any guidance on the specificities of handling and driving the vehicle.

The additional requirements listed below are not compulsory but if offered may result in obtaining additional number of points during the technical evaluation:

- Full set of manuals in Bulgarian and Greek.

## 5.2. Insurance

The Contractor will be responsible for insuring all the vehicles and issuing the Green Cards. The insurance coverage shall include vehicles licensed for out of road use and shall cover the following:

- third-party liability insurance<sup>3</sup> (LI) for property damages or bodily injuries to any 3rd party outside the vehicle per accident, up to 50,000,000 EUR;
- Collision Damage Waiver (CDW) with zero-deductible/excess coverage and therefore full coverage of damages caused by collisions including glass, side mirrors, roof, undercarriage, wheels and tyres. Coverage comprises damages occur while the vehicle is on ferry.
- Loss Damage Waiver (LDW)/Theft Protection (TP) with zero-deductible/excess and therefore full coverage against theft including vandalism, acts of nature, fire, loss of use, loss of keys, paperwork charges, and liability.
- Breakdown Cover, covering roadside assistance, vehicle towing, recovery/salvage, vehicle repair and the provision of an exchange and/or temporary replacement vehicle with minimum the same specifications of the leased vehicle

Frontex shall, however not be involved in matters of disputes between the Contractor and the insurers. The direct responsibility for such matters shall fall on the Contractor.

When preparing its Financial Proposal the Tenderers shall bear in mind that the age of Frontex deployed staff using the leased vehicles is not less than 21 and not more than 65.

## 5.3. Maintenance and repairs

During the vehicles leasing period (36 months) the Contractor will be responsible for ensuring the periodic maintenance and breakdown repair services. The maintenance and service work shall occur as prescribed by the vehicle manufacturer's service book. For this purpose Frontex and Contractor personnel shall communicate at the prescribed deadlines to ensure that the vehicles are taken for maintenance service and that all repairs are performed in due time.

The maintenance works shall be performed by the authorised service workshop geographically closest to the vehicle deployment location.

The Contractor shall bear the expenses of such maintenance and repair services.

Frontex shall notify the Contractor immediately in case a need for repair works is identified outside the periodic maintenance occurrence. Such works shall be executed by the authorised service workshop geographically closest to the vehicle deployment location.

In case such repair works cannot be covered by warranty and/or insurance (e.g. breakdown is due to a gross negligence from Frontex side), the costs will be covered by Frontex separately.

The Contractor engages to facilitate as much as possible the timely execution of the maintenance and repair works by reacting to Frontex related requests within a maximum 2 working days period.

<sup>3</sup> Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability

#### **5.4. Tyres management**

During the winter period the leased vehicle/s shall be equipped with winter tyres and any other equipment as required by law of the country/s of use.

In this regard the Contractor shall deliver the following services: storage of the spare tyres and replacement (twice a year) of tyres.

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## **6. Quality monitoring and acceptance procedures**

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### **6.1. Quality control procedure**

All the vehicles/services which are part of this ToR are subject to the Frontex 'acceptance. Frontex will monitor the quality of the vehicles and services provided by the Contractor. Elements that will be monitored include:

- (i) Full compliance with the minimum technical requirements stipulated in this ToR;
- (ii) Adherence to deadlines;
- (iii) Communication skills and ability to cooperate with users.

The Contractor will be immediately informed in case the performance standards are not up to expectations in any of the criteria and will be requested to remedy the identified failure immediately.

### **6.2. Acceptance procedure**

Based on quality monitoring and control, all vehicles and services delivered under the FWC will be subject to the Frontex acceptance.

Upon delivery of the vehicles and services which are part of the SOs Frontex shall evaluate them and provide the Contractor with written notice of Acceptance, Partial Acceptance or Non-acceptance.

In the event Frontex provided notice of partial or non-acceptance to Contractor, it shall have the continuing right, at its sole option, to:

- refuse to pay any fees or other amounts associated with such products;
- accept such vehicles/services on the condition that any fees or other amounts payable with respect thereto shall be reduced or discounted to reflect, to Frontex' satisfaction, the deficiencies present therein or the costs likely to be incurred by Frontex to correct such deficiencies, or
- terminate the contract and/or seek any and all available remedies, including damages.

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## 7. Implementation of FWC

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### 7.1. Indicative implementation plan for the FWC

The list below presents the indicative plan of the implementation of the FWC, which is not binding on Frontex and may be adapted during the contractual period.

- First SO are scheduled to start within 2 months from the moment of FWC signature;
- Possibility of multiple services performed at the same time: several SOs may run in parallel.

### 7.2. Specific Orders implementation process

The FWC shall be implemented by means of SOs. For each service execution Frontex will release to the FWC Contractor a SO, which will define:

- Number of vehicles to be leased;
- Vehicles colour;
- Delivery location/s.

### 7.3. Acceptance & Evaluation

For any SO, the official evaluation of the service delivered will take place at pre-defined milestones, at the start, during the implementation, and at the completion of each SO. It shall be conducted against the quality and/or acceptance criteria.

### 7.4. Payment

All prices shall be expressed in EUR. The prices shall be presented using the model under *Annex IV - Financial Proposal*.

The payments shall be executed by quarterly tranches corresponding the amount of vehicles leased.

The other services contracted (insurance, tyres management) shall be invoiced separately upon their occurrence.

The request for pre-financing can only be accepted in exceptional duly justified cases and in any circumstances cannot exceed 20 (twenty) percent of the overall value of the SO.

Each payment will be executed based on the Contractor's invoice within a period of 30 days.

In case Frontex decides to buy off the vehicles at the end of the 36 months leasing period, it shall inform the Contractor at least 3 months before the end of the lease period. In such case the Contractor shall invoice the concerned vehicles at their residual value<sup>4</sup>.

### 7.5. Language

All the documentation delivered within the contract shall be in English. Moreover all communication, whether written or spoken, shall be in English. The Contractor shall ensure that its personnel as defined in the Terms of Reference are fluent in English.

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<sup>4</sup> The residual value at the end of the 36 months lease period shall be 20 percent